

AMENDED IN ASSEMBLY AUGUST 21, 2012

SENATE BILL

No. 1308

**Introduced by Committee on Public Employment and Retirement
(Senators Negrete McLeod (Chair), Gaines, Padilla, Vargas, and
Walters)**

February 23, 2012

An act to amend Sections 107, 4809.8, 11310, 19428, and 19816 of the Business and Professions Code, to amend Sections 22717.5, 22901.3, 24003, 24103, 59008, 59104, and 59205 of the Education Code, to amend Section 17450 of the Family Code, to amend Section 2203 of the Fish and Game Code, to amend Sections 6006, 6042, 6047.4, 6988, 14581, 14971, 27574, 29028, 40576, 41008, 41867, 52885, 54442, 74743, 77939, and 78239 of the Food and Agricultural Code, to amend Sections 927.13, 1150, 1156, 1156.1, ~~3513~~, 3517.63, ~~3527~~, 3535, 3537, 3539.5, 3541, 3572.1, 7507, 8546, 8870.4, 8880.18, 8903, 9149.4, ~~11270~~, ~~11552~~, 11565.5, 12010.6, 12012.85, 13332.07, 14876, 14998.3, 16649.94, 18000.5, 18573, 18574, 18706, 18707, 18708, 18711, 18714, 18717, 18801.1, 18802, 18904, 18905, 19134, 19172, 19253.5, 19261, 19576.1, 19582, 19583, 19592, 19770, 19775, 19775.1, 19775.15, 19775.16, 19775.17, 19775.18, ~~19815~~, 19815.41, 19815.8, 19816.21, 19816.22, 19819.5, 19822.6, 19827.3, 19829.5, 19829.6, 19844.7, 19849.11, 19849.13, 19849.14, 19849.16, 19853, 19853.1, 19867, 19999.1, 19999.3, 19999.21, 19999.31, 20068, 20090, 20090.1, 20398, 20405, 20405.1, 20405.2, 20405.3, 20407, 20408, 20632, 20636, 20672.5, 20677.4, 20683, 20683.1, 20687, 20963.1, 21159, 21160, 21195, 21223, 21251.13, 21353, 21354.1, 21362.2, 21363, 21363.1, 21363.4, 21363.8, 21369, 21369.1, 21410, 21465, 21672, 21674, 22808, 22811, 22814, 22815, 22816, 22850, 22865, 22871.5, 22944.3, 22953, 22954, 22959, 22959.2, 22959.4, 22959.6, 22960, 22960.35, 22960.60, 22960.100, 68203, 77601, 77602, and 100503 of, to amend the heading

of Chapter 1 (commencing with Section 19815) of Part 2.6 of Division 5 of Title 2 of, to amend and repeal ~~Sections~~ *Section 19608 and 21369.2* of, to add Section 19573 to, to repeal Section 19702 of, *to repeal and amend Section 21369.2 of*, and to repeal and add Section 19815.2 of, the Government Code, to amend ~~Sections 11755 and~~ *Section 50909* of the Health and Safety Code, to amend Sections 10203.2, 11871, 12693.65, and 12710 of the Insurance Code, to amend Sections 122, 123, 3352, and 4600 of the Labor Code, to amend Sections 322 and 1011 of the Military and Veterans Code, to amend Sections 832.9 and 6050 of the Penal Code, to amend Sections 10295, 10344.1, and 10349 of the Public Contract Code, to amend Sections 309.1 and 185024 of the Public Utilities Code, to amend Section 19270 of the Revenue and Taxation Code, to amend Section 2266 of the Vehicle Code, and to amend Section 80122 of the Water Code, relating to the Department of Human Resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1308, as amended, Committee on Public Employment and Retirement. State human resources functions.

The California Constitution establishes the State Personnel Board and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Existing law establishes the Department of Personnel Administration for purposes of managing the nonmerit aspects of the state's personnel system.

Governor's Reorganization *Plan* No. 1, operative July 1, 2012, creates the Department of Human Resources, which is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board as its designee with respect to the State Personnel Board's administrative and ministerial functions. The plan also abolishes the Department of Personnel Administration, and transfers the functions and duties performed by the Department of Personnel Administration to the Department of Human Resources. The plan eliminates certain functions of the State Personnel Board relating to investigating and hearing complaints of discrimination in the civil service. The plan also authorizes the Department of Human Resources to establish disciplinary criteria applicable to adverse actions taken by appointing bodies pursuant

to causes of discipline for employees and individuals established pursuant to specified provisions of law. The plan requires the State Personnel Board to give consideration and respect to any applicable disciplinary criteria established by the Department of Human Resources in making certain decisions relating to disciplinary proceedings.

This bill would enact the statutory changes necessary to reflect the changes made by the Governor's Reorganization Plan No. 1.

This bill would provide that any section of any act enacted by the Legislature during the 2012 calendar year that takes effect on or before January 1, 2013, and affects any section of this act, would prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 107 of the Business and Professions Code
2 is amended to read:

3 107. Pursuant to subdivision (e) of Section 4 of Article VII of
4 the California Constitution, each board may appoint a person
5 exempt from civil service and may fix his or her salary, with the
6 approval of the Department of Human Resources pursuant to
7 Section 19825 of the Government Code, who shall be designated
8 as an executive officer unless the licensing act of the particular
9 board designates the person as a registrar.

10 SEC. 2. Section 4809.8 of the Business and Professions Code
11 is amended to read:

12 4809.8. (a) The board shall establish an advisory committee
13 to assist, advise, and make recommendations for the
14 implementation of rules and regulations necessary to ensure proper
15 administration and enforcement of this chapter and to assist the
16 board in its examination, licensure, and registration programs. This
17 committee shall be known as the Veterinary Medicine
18 Multidisciplinary Advisory Committee. Members of the
19 multidisciplinary committee shall be appointed by the board from
20 lists of nominees solicited by the board. The committee shall
21 consist of the following seven members: four licensed
22 veterinarians, two registered veterinary technicians, and one public
23 member. Members of the multidisciplinary committee shall

1 represent a sufficient cross section of the interests in veterinary
2 medicine in order to address the issues before it, as determined by
3 the board, including veterinarians, registered veterinary technicians,
4 and members of the public.

5 (b) Multidisciplinary committee members shall hold office for
6 a term of three years and appointments shall be staggered
7 accordingly. A member may be reappointed, but no person shall
8 serve as a member of the committee for more than two consecutive
9 terms. Vacancies occurring shall be filled by appointment for the
10 unexpired term, within 90 days after they occur.

11 (c) The multidisciplinary committee shall be subject to the
12 requirements of Article 9 (commencing with Section 11120) of
13 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
14 Code.

15 (d) Multidisciplinary committee members shall receive a per
16 diem as provided in Section 103 and shall be compensated for their
17 actual travel expenses in accordance with the rules and regulations
18 adopted by the Department of Human Resources.

19 (e) The board may remove a member of the multidisciplinary
20 committee for continued neglect of a duty required by this chapter,
21 for incompetency, or for unprofessional conduct.

22 SEC. 3. Section 11310 of the Business and Professions Code
23 is amended to read:

24 11310. The Governor shall appoint, subject to confirmation
25 by the Senate, the Director of the Office of Real Estate Appraisers
26 who shall, in consultation with the Governor and secretary,
27 administer the licensing and certification program for real estate
28 appraisers. In making the appointment, consideration shall be given
29 to the qualifications of an individual that demonstrate knowledge
30 of the real estate appraisal profession.

31 (a) The director shall serve at the pleasure of the Governor. The
32 salary for the director shall be fixed and determined by the secretary
33 with approval of the Department of Human Resources.

34 (b) The director shall not be actively engaged in the appraisal
35 business or any other affected industry for the term of appointment,
36 and thereafter the director shall be subject to Section 87406 of the
37 Government Code.

38 (c) The director, in consultation with the secretary and in
39 accordance with the State Civil Service Act, may appoint and fix
40 the compensation of legal, clerical, technical, investigation, and

auditing personnel as may be necessary to carry out this part. All personnel shall perform their respective duties under the supervision and direction of the director.

(d) The director may appoint not more than four deputy directors as he or she deems appropriate. The deputy directors shall perform their respective duties under the supervision and direction of the director.

(e) Every power granted to or duty imposed upon the director under this part may be exercised or performed in the name of the director by the deputy directors, subject to conditions and limitations as the director may prescribe.

SEC. 4. Section 19428 of the Business and Professions Code is amended to read:

19428. The board shall appoint an executive director who shall receive the annual salary established by the board and approved by the Department of Human Resources. The executive director shall be the board's executive officer and shall carry out and execute the duties as specified by law and by the board.

SEC. 5. Section 19816 of the Business and Professions Code is amended to read:

19816. (a) The commission shall have an executive director appointed by the commission. A person is ineligible for appointment as executive director or deputy executive director if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any gambling establishment, whether or not a controlled gambling establishment.

(b) The executive director shall receive the annual salary established by the commission and approved by the Department of Human Resources. The executive director shall be the commission's executive officer and shall carry out and execute the duties as specified by law and by the commission.

(c) The commission may appoint other staff and clerical personnel as necessary to carry out its duties under this chapter.

SEC. 6. Section 22717.5 of the Education Code is amended to read:

22717.5. (a) A member shall be credited at service retirement for each day of accumulated and unused leave of absence for

1 education for which full salary is allowed on the member's final
2 day of employment with the state.

3 (b) The amount of service credit to be granted shall be 0.004
4 years of service for each unused day of educational leave credit.

5 (c) When the member has made application for service
6 retirement under this part, the employer shall certify to the board,
7 within 30 days following the effective date of the member's service
8 retirement, the number of days of accumulated and unused leave
9 of absence for education that the member was entitled to on the
10 final day of employment. The board may assess a penalty on
11 delinquent reports.

12 (d) This section shall apply to eligible state employees in state
13 bargaining units that have agreed to this section in a memorandum
14 of understanding, or as authorized by the Director of Human
15 Resources for classifications of state employees that are excluded
16 from the definition of "state employee" by paragraph (c) of Section
17 3513 of the Government Code.

18 (e) The provisions of this section shall be effective for eligible
19 members who retire directly from state employment on or after
20 January 1, 2000.

21 SEC. 7. Section 22901.3 of the Education Code is amended to
22 read:

23 22901.3. (a) Notwithstanding Section 22901, the normal rate
24 of contribution for a "state employee," as defined in subdivision
25 (c) of Section 3513 of the Government Code, who is a member of
26 the Defined Benefit Program, may be established by a
27 memorandum of understanding reached pursuant to Section 3517.5
28 of the Government Code. The memorandum of understanding shall
29 be controlling without further legislative action, except that if the
30 provisions of the memorandum of understanding require the
31 expenditure of funds, the provisions may not become effective
32 unless approved by the Legislature in the annual Budget Act.

33 (b) The Director of Human Resources may establish the normal
34 rate of contribution for a state employee who is a member of the
35 Defined Benefit Program who is excepted from the definition of
36 "state employee" in subdivision (c) of Section 3513 of the
37 Government Code, and an officer or employee of the executive
38 branch of state government who is not a member of the civil
39 service. The normal rate of contribution shall be the same for all
40 members identified in this subdivision. The contribution rate shall

1 be effective the beginning of the pay period indicated by the
2 Director of Human Resources but shall be no earlier than the
3 beginning of the pay period following the date the board receives
4 notification.

5 SEC. 8. Section 24003 of the Education Code is amended to
6 read:

7 24003. (a) The member shall provide medical documentation
8 to substantiate the impairment qualifying the member for the
9 disability allowance.

10 (b) On receipt of an application for disability allowance under
11 this part, the system may order a medical examination or review
12 of medical documentation of a member to determine whether the
13 member is incapacitated for performance of service. The medical
14 examination or review of medical documentation shall be
15 conducted by a practicing physician, selected by the board, with
16 expertise in the member's impairment and the board shall pay all
17 costs associated with the examination or review of medical
18 documentation. If the member refuses to submit to the required
19 medical examination or review of medical documentation, the
20 application for disability allowance shall be rejected. If a medical
21 examination is ordered:

22 (1) The member shall either remain in this state, or return to
23 this state at the member's own expense, to undergo the medical
24 examination, or the application shall be rejected, unless this
25 requirement is waived by the board. The board shall pay all other
26 reasonable costs related to travel and meals in accordance with the
27 rates set for state employees by the Department of Human
28 Resources.

29 (2) If the member is too ill to be examined, the system shall
30 postpone the examination until the member can be examined. The
31 member or the member's treating physician shall inform the
32 system, in writing, when the medical examination can be
33 rescheduled.

34 (c) The system may reject the disability allowance application
35 under this part if the member fails to provide requested medical
36 documentation to substantiate a disability, as defined in Section
37 22126, within 45 days from the date of the request or within 30
38 days from the time that a legally designated representative is
39 empowered to act on behalf of a member who is mentally or
40 physically incapacitated.

(d) If the board determines that a member who has applied for a disability allowance under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability allowance application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability allowance application under this part within 30 days after that determination is made by the system.

(g) In determining whether a member meets the definition of disability pursuant to Section 22126, the board shall make a determination on the basis of competent medical documentation and shall not use the awarding of a disability allowance as a substitute for the disciplinary process.

SEC. 9. Section 24103 of the Education Code is amended to read:

24103. (a) The member shall provide medical documentation substantiating the impairment qualifying the member for the disability retirement under this part.

(b) On receipt of an application for disability retirement under this part, the system may order a medical examination or review of medical documentation of a member to determine whether the member is incapacitated for performance of service. The medical examination or review of medical documentation shall be conducted by a practicing physician, selected by the board, with expertise in the member's impairment, and the board shall pay all costs associated with the examination or review of medical documentation. If the member refuses to submit to the required medical examination or review of medical documentation, the application for disability retirement shall be rejected. If a medical examination is ordered:

(1) The member shall either remain in this state, or return to this state at the member's own expense, to undergo the medical

1 examination or the application shall be rejected, unless this
2 requirement is waived by the board. The board shall pay all other
3 reasonable costs related to travel and meals in accordance with the
4 rates set for state employees by the Department of Human
5 Resources.

6 (2) If the member is too ill to be examined, the system shall
7 postpone the examination until the member can be examined. The
8 member or the member's treating physician shall inform the
9 system, in writing, when the medical examination can be
10 rescheduled.

11 (c) The system may reject the disability retirement application
12 under this part if the member fails to provide requested medical
13 documentation to substantiate a disability, as defined in Section
14 22126, within 45 days from the date of the request or within 30
15 days from the time that a legally designated representative is
16 empowered to act on behalf of a member who is mentally or
17 physically incapacitated.

18 (d) If the board determines that a member who has applied for
19 disability retirement under this part may perform service in the
20 member's former position of employment or in a comparable level
21 position with the assistance of reasonable accommodation, the
22 board may require the member to request reasonable
23 accommodation from the employer. Failure of the member to
24 request reasonable accommodation, as directed by the board, may
25 be grounds for cancellation of the disability retirement application
26 under this part.

27 (e) If the employer fails or refuses to provide reasonable
28 accommodation, the board may require the member to pursue an
29 administrative appeal of the employer's denial as a condition for
30 receiving a disability retirement allowance under this part.

31 (f) The system shall inform the member of the rejection or
32 cancellation of the member's disability retirement allowance
33 application under this part within 30 days after that determination
34 is made by the system.

35 (g) In determining whether a member meets the definition of
36 disability pursuant to Section 22126, the board shall make a
37 determination on the basis of competent medical documentation
38 and shall not use the awarding of a disability retirement as a
39 substitute for the disciplinary process.

1 SEC. 10. Section 59008 of the Education Code is amended to
2 read:

3 59008. (a) The Department of Human Resources shall consider
4 making salaries for teachers, specialists, and administrators of the
5 California School for the Deaf competitive with the salaries of
6 similarly qualified school teachers, specialists, and administrators
7 who are employed by the encompassing school districts.

8 (b) For purposes of this section, “teachers,” “teacher specialists,”
9 and “administrators” mean those individuals who hold the
10 appropriate teaching, service, or teaching and administrative
11 credential, as appropriate, as issued by the Commission on Teacher
12 Credentialing, as determined by the employing state agency.

13 SEC. 11. Section 59104 of the Education Code is amended to
14 read:

15 59104. (a) The Department of Human Resources shall consider
16 making salaries for teachers, specialists, and administrators of the
17 California School for the Blind competitive with the salaries of
18 similarly qualified school teachers, specialists, and administrators
19 who are employed by the encompassing school districts.

20 (b) For purposes of this section, “teachers,” “teacher specialists,”
21 and “administrators” mean those individuals who hold the
22 appropriate teaching, service, or teaching and administrative
23 credential, as appropriate, as issued by the Commission on Teacher
24 Credentialing, as determined by the employing state agency.

25 SEC. 12. Section 59205 of the Education Code is amended to
26 read:

27 59205. (a) The Department of Human Resources shall consider
28 making salaries for teachers, specialists, and administrators of the
29 Diagnostic Center, Southern California, the Diagnostic Center,
30 Central California, and the Diagnostic Center, Northern California,
31 competitive with the salaries of similarly qualified school teachers,
32 specialists, and administrators who are employed by the
33 encompassing school districts.

34 (b) For purposes of this section, “teachers,” “teacher specialists,”
35 and “administrators” mean those individuals who hold the
36 appropriate teaching, service, or teaching and administrative
37 credential, as appropriate, as issued by the Commission on Teacher
38 Credentialing, as determined by the employing state agency.

39 SEC. 13. Section 17450 of the Family Code is amended to
40 read:

1 17450. (a) For purposes of this article:

2 (1) “Child support delinquency” means a delinquency defined
3 in subdivision (c) of Section 17500.

4 (2) “Earnings” shall include the items described in Section 5206.

5 (b) (1) When a delinquency is submitted to the department
6 pursuant to subdivision (c) of Section 17500, the amount of the
7 child support delinquency shall be collected by the department in
8 any manner authorized under state or federal law.

9 (2) Any compensation, fee, commission, expense, or any other
10 fee for service incurred by the department in the collection of a
11 child support delinquency authorized under this article shall not
12 be an obligation of, or collected from, the obligated parent.

13 (c) (1) The department may return or allow a local child support
14 agency to retain a child support delinquency for a specified purpose
15 for collection where the department determines that the return or
16 retention of the delinquency for the purpose so specified will
17 enhance the collectibility of the delinquency. The department shall
18 establish a process whereby a local child support agency may
19 request and shall be allowed to withdraw, rescind, or otherwise
20 recall the submittal of an account that has been submitted.

21 (2) If an obligor is disabled, meets the federal Supplemental
22 Security Income resource test, and is receiving Supplemental
23 Security Income/State Supplementary Payments (SSI/SSP), or,
24 but for excess income as described in Section 416.1100 and
25 following of Part 416 of Title 20 of the Code of Federal
26 Regulations, would be eligible to receive as SSI/SSP, pursuant to
27 Section 12200 of the Welfare and Institutions Code, and the obligor
28 has supplied the local child support agency with proof of his or
29 her eligibility for, and, if applicable, receipt of, SSI/SSP or Social
30 Security Disability Insurance benefits, then the child support
31 delinquency shall not be referred to the department for collection,
32 and, if referred, shall be withdrawn, rescinded, or otherwise recalled
33 from the department by the local child support agency. The
34 department shall not take any collection action, or if the local child
35 support agency has already taken collection action, shall cease
36 collection actions in the case of a disabled obligor when the
37 delinquency is withdrawn, rescinded, or otherwise recalled by the
38 local child support agency in accordance with the process
39 established as described in paragraph (1).

(d) It is the intent of the Legislature that when the California Child Support Automation System (CCSAS) is fully operational, any statutes that should be modified based upon the status of the system shall be revised. During the development and implementation of CCSAS, the department, as the Title IV-D agency, may, through appropriate interagency agreement, delegate any and all of the functions or procedures specified in this article to the Franchise Tax Board. The Franchise Tax Board shall perform those functions or procedures as specified in Sections 19271 to 19275, inclusive, of the Revenue and Taxation Code until such time as the director, by letter to the executive officer of the Franchise Tax Board, revokes such delegation of Title IV-D functions. Sections 19271 to 19275, inclusive, of the Revenue and Taxation Code shall be effective for these purposes until the revocation of delegation to the Franchise Tax Board.

(e) Consistent with the development and implementation of the California Child Support Automation System (CCSAS), the Franchise Tax Board and the department shall enter into a letter of agreement and an interagency agreement whereby the department shall assume responsibility for collection of child support delinquencies and the Financial Institution Data Match System as set forth in this article. The letter of agreement and interagency agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon the enactment of the Budget Act, and staffing authorization from the Department of Finance and the Department of Human Resources, the department shall assume responsibility for leadership and staffing of the collection of child support delinquencies and the Financial Institution Data Match System.

(2) All employees and other personnel who staff or provide support for the collection of child support delinquencies and the Financial Institution Data Match System at the Franchise Tax Board shall become the employees of the department at their existing or equivalent classification, salaries, and benefits.

(3) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service, including, but not limited to, agreements for continued use of automated systems used by the Franchise Tax Board to locate child support obligors and their assets.

1 SEC. 14. Section 2203 of the Fish and Game Code is amended
2 to read:

3 2203. (a) The director, with the advice of the committee
4 established pursuant to Section 2150.3, shall adopt regulations to
5 establish and administer a grant program, including eligibility
6 criteria, by which persons or governmental agencies who operate
7 facilities to care and shelter mammals may apply for grants for
8 maintenance, operations, and capital improvements. The program
9 shall include provisions for emergency grants with an expedited
10 review process.

11 (b) Each member of the committee who is eligible to receive
12 per diem and mileage shall be allowed per diem and mileage in
13 accordance with the rules of the Department of Human Resources
14 for attending any meeting of the committee involving this article.

15 SEC. 15. Section 6006 of the Food and Agricultural Code is
16 amended to read:

17 6006. The director shall appoint a Cotton Pest Control Board,
18 consisting of 10 members, to assist and advise him or her on
19 matters which pertain to the control of cotton pests and to carry
20 out its authority specified in this article.

21 The membership shall consist of at least one cottongrower from
22 each of the major cotton-growing counties in the state, and one
23 member who is not a cottongrower and who represents the public.

24 Any member of the board who misses two meetings without the
25 permission of the board, is deemed to have resigned as a member
26 of the board.

27 The board may meet in regular session each month. The
28 chairperson of the board or the director may call any other meeting
29 of the board at any time. Each member shall be allowed per diem
30 and mileage in accordance with Department of Human Resources
31 rules for attending any meeting of the board.

32 The board shall annually review the effectiveness of the cotton
33 pest control program.

34 SEC. 16. Section 6042 of the Food and Agricultural Code is
35 amended to read:

36 6042. The board shall meet at the call of its chairman or the
37 secretary or at the request of any three members of the board. The
38 board shall meet at least once a year. Members of the board shall
39 be allowed per diem and mileage in accordance with rules of the
40 Department of Human Resources for attendance at meetings and

1 other board activities authorized by the board and approved by the
2 secretary.

3 SEC. 17. Section 6047.4 of the Food and Agricultural Code is
4 amended to read:

5 6047.4. (a) The powers of the board shall be the following:

6 (1) Submit recommendations to the secretary on, but not limited
7 to, the following:

8 (A) Selection of officers.

9 (B) Terms of office for board members.

10 (C) Annual assessment rate.

11 (D) Annual budget.

12 (E) Expenditures authorized under Sections 6047.5 and 6047.30.

13 (2) Receive money from the assessment and other sources.

14 (3) Adopt, amend, and rescind all proper and necessary bylaws
15 and procedures.

16 (4) Coordinate its activities with the secretary's science advisory
17 board and agricultural/governmental advisory task force.

18 (b) A majority of the members of the board shall constitute a
19 quorum of the board. The vote of a majority of the members present
20 at a meeting at which there is a quorum constitutes an act of the
21 board, except for actions taken pursuant to subdivision (a) of
22 Section 6047.7, which shall require a majority of the vote of the
23 board. The board may continue to transact business at a meeting
24 where a quorum is initially present, notwithstanding the withdrawal
25 of members, provided any action is approved by the requisite
26 majority of the required quorum.

27 (c) As authorized by the board, members of the board may
28 receive per diem and mileage in accordance with the rules of the
29 Department of Human Resources for attendance at meetings and
30 other approved board activities.

31 SEC. 18. Section 6988 of the Food and Agricultural Code is
32 amended to read:

33 6988. The secretary, upon consultation with the pome and stone
34 fruit tree, nut tree, olive tree, and grapevine nursery industry, shall
35 appoint a board to assist and advise him or her concerning the
36 implementation of this article.

37 (a) Membership on the board shall consist of 11 representatives,
38 a majority of whom are licensed producers of pome, stone, nut,
39 olive, and grape nursery stock, but also users and a public member
40 as follows:

1 (1) Two each from the stone fruit (including almonds) and nut
2 (other than almond) industries.

3 (2) Four from the grape industry.

4 (3) One each from the pome fruit and olive industries.

5 (4) One public representative.

6 (b) Board members shall represent all areas of the state involved
7 in the production of pome and stone fruit trees, nut trees, olive
8 trees, and grapevines.

9 (c) The members of the board shall serve for fixed terms of up
10 to two years. The secretary, upon nomination by the industry, may
11 appoint a member for three consecutive terms. The secretary shall
12 reappoint no more than eight of the then-current members of the
13 board within a two-year period.

14 (d) The board shall meet at least twice a year. The chair or the
15 secretary may call any other meeting when it is deemed necessary
16 by one or both of them. Each member shall be allowed per diem
17 and mileage in accordance with Department of Human Resources
18 rules for attending any meeting of the board.

19 (e) The board shall review and make recommendations to the
20 secretary concerning the ongoing operations of the department and
21 the University of California pertaining to this article. This shall
22 include advice on fiscal expenditure, assessments needed to cover
23 costs, and proposals concerning the development of planting
24 materials.

25 SEC. 19. Section 14581 of the Food and Agricultural Code is
26 amended to read:

27 14581. There is, in the department, a Fertilizer Inspection
28 Advisory Board consisting of nine persons appointed by the
29 secretary, eight of whom shall be licensed under this chapter and
30 subject to the payment of the inspection fee in accordance with
31 this chapter, and one of whom shall be a public member. The
32 members of the board shall receive no compensation, but are
33 entitled to payment of necessary traveling expenses in accordance
34 with the rules of the Department of Human Resources. These
35 expenses shall be paid out of appropriations made to the department
36 pursuant to this chapter.

37 SEC. 20. Section 14971 of the Food and Agricultural Code is
38 amended to read:

39 14971. There is in state government a Feed Inspection Advisory
40 Board consisting of eight persons appointed by the director, who

1 are licensed under this chapter, and who are subject to payment
2 of the inspection tonnage tax in accordance with this chapter. The
3 director may appoint one additional member to the board who shall
4 be a public member. The members of the board shall receive no
5 salary, but are entitled to payment of necessary traveling expenses
6 in accordance with Department of Human Resources rules. These
7 expenses shall be paid out of appropriations made to the
8 department.

9 Upon the director's request, the board shall submit to the director
10 the names of three or more natural persons, each of whom shall
11 be a citizen and resident of this state and not a producer, shipper,
12 or processor nor financially interested in any producer, shipper,
13 or processor, for appointment by the director as a public member
14 of the board. The director may appoint one of the nominees as the
15 public member on the board. If all nominees are unsatisfactory to
16 the director, the board shall continue to submit lists of nominees
17 until the director has made a selection. Any vacancy in the office
18 of the public member of the board shall be filled by appointment
19 by the director from the nominee or nominees similarly qualified
20 submitted by the board. The public member of the board shall
21 represent the interests of the general public in all matters coming
22 before the board and shall have the same voting and other rights
23 and immunities as other members of the board.

24 SEC. 21. Section 27574 of the Food and Agricultural Code is
25 amended to read:

26 27574. The committee shall meet at the call of its chairman,
27 the director, or at the request of any three members of the
28 committee. The committee shall meet at least once a year.
29 Necessary expenditures incurred by the committee members in
30 attending committee meetings may be reimbursed in accordance
31 with Department of Human Resources rules.

32 SEC. 22. Section 29028 of the Food and Agricultural Code is
33 amended to read:

34 29028. Each member of the board shall serve without
35 compensation, but each member shall be reimbursed for actual
36 and necessary expenses, including travel expenses, incurred in
37 attending meetings of the board and any other official duty
38 authorized by the board and approved by the director. The
39 reimbursements shall be made in accordance with the rules of the
40 Department of Human Resources.

1 SEC. 23. Section 40576 of the Food and Agricultural Code is
2 amended to read:

3 40576. Each member of the committee, or any alternate
4 member serving in the absence of a regular member, may, with
5 the approval of the director, be reimbursed for the actual and
6 necessary expenses incurred in the performance of his or her
7 official duties. However, a member or alternate member may not
8 receive any other consideration for serving on the committee. The
9 reimbursement shall be made at the rate permitted under the rules
10 of the Department of Human Resources.

11 SEC. 24. Section 41008 of the Food and Agricultural Code is
12 amended to read:

13 41008. Each member of the committee, any alternate member
14 serving in the absence of a regular member, and any member of
15 an advisory committee appointed by the chairman of the committee,
16 may, with approval of the director, be reimbursed for the actual
17 and necessary expenses incurred in the performance of their official
18 duties. However, members may not receive any other consideration.
19 Any of these reimbursements shall be made at the rate permitted
20 under the rules of the Department of Human Resources.

21 SEC. 25. Section 41867 of the Food and Agricultural Code is
22 amended to read:

23 41867. Each member of the committee, any alternate member
24 serving in the absence of a regular member, and any member of
25 an advisory committee appointed by the chairman of the committee,
26 with approval of the secretary, may be reimbursed for the actual
27 necessary expenses incurred in the performance of their official
28 duties. Any reimbursement shall be made at the rate permitted
29 under the rules of the Department of Human Resources and a
30 member shall not receive any other compensation.

31 SEC. 26. Section 52885 of the Food and Agricultural Code is
32 amended to read:

33 52885. No board member, alternate, member of a committee
34 who is a nonmember of the board, or ex officio member shall
35 receive a salary, but may, if approved by the board, be allowed
36 per diem in accordance with Department of Human Resources
37 rules for each day spent in actual attendance on, or in traveling to
38 and from, meetings of the board or committees of the board, or on
39 special assignment for the board.

1 SEC. 27. Section 54442 of the Food and Agricultural Code is
2 amended to read:

3 54442. (a) To aid in preparation of the report required under
4 this chapter, the secretary shall establish an advisory committee
5 consisting of the following persons:

6 (1) Six representatives of cooperative bargaining associations
7 from names submitted by cooperative bargaining associations, two
8 of whom shall be appointed by the Governor, two of whom shall
9 be appointed by the Speaker of the Assembly, and two of whom
10 shall be appointed by the Senate Committee on Rules.

11 (2) Six representatives of processors from names submitted by
12 processors, two of whom shall be appointed by the Governor, two
13 of whom shall be appointed by the Speaker of the Assembly, and
14 two of whom shall be appointed by the Senate Committee on Rules.

15 (b) The members of the advisory committee shall be reimbursed
16 for travel expenses pursuant to the rules and regulations adopted
17 by the Director of Human Resources pursuant to Section 19820
18 of the Government Code for attendance at a meeting approved by
19 the Secretary of Food and Agriculture.

20 SEC. 28. Section 74743 of the Food and Agricultural Code is
21 amended to read:

22 74743. No board member or alternate member or member of
23 a committee established by the commission who is a nonmember
24 of the commission shall receive any compensation. Each board
25 member or each alternate member serving in place of a board
26 member, except ex officio members who are state officers or
27 employees, and each member of a committee established by the
28 commission who is not a board member or alternate member, may
29 receive per diem not to exceed one hundred dollars (\$100) per day,
30 as established by the commission. In addition, board members and
31 alternate members of the commission and members of committees
32 established by the commission shall be reimbursed for actual and
33 necessary travel expenses under the rules of the Department of
34 Human Resources. The per diem and reimbursement for travel
35 expenses shall be paid to those members for each day spent in
36 actual attendance at, or in traveling to and from, meetings of the
37 commission or committees of the commission, or on special
38 assignment for the commission, as provided by the commission.

39 SEC. 29. Section 77939 of the Food and Agricultural Code is
40 amended to read:

1 77939. Members and alternate members of the commission
2 and members of committees established by the commission shall
3 not receive any compensation but shall receive the per diem
4 established by Section 11564.5 of the Government Code. Ex officio
5 members who are state officers or employees and who are
6 compensated by the state are not eligible for per diem pursuant to
7 this section. In addition, members and alternate members of the
8 commission and members of committees established by the
9 commission shall be reimbursed for actual and necessary travel
10 expenses under the rules of the Department of Human Resources.
11 The per diem and reimbursement for travel expenses shall be paid
12 to those members for each day spent in actual attendance at, or in
13 traveling to and from, meetings of the commission or committees
14 of the commission, or on special assignment for the commission,
15 as approved by the commission.

16 SEC. 30. Section 78239 of the Food and Agricultural Code is
17 amended to read:

18 78239. Members and alternate members of the commission,
19 and members of committees established by the commission, shall
20 not receive any compensation, but notwithstanding Section 11564.5
21 of the Government Code, shall receive the per diem established
22 by the commission, not to exceed one hundred dollars (\$100) per
23 day. Ex officio members who are state officers or employees are
24 not eligible for per diem pursuant to this section. In addition,
25 members and alternate members of the commission, and members
26 of committees established by the commission, shall be reimbursed
27 for actual and necessary travel expenses under the rules of the
28 Department of Human Resources. The per diem and reimbursement
29 for travel expenses shall be paid to those members for each day
30 spent in actual attendance at, or in traveling to and from, meetings
31 of the commission or committees of the commission, or on special
32 assignment for the commission, as approved by the commission.

33 SEC. 31. Section 927.13 of the Government Code is amended
34 to read:

35 927.13. (a) Unless otherwise provided for by statute, any state
36 agency that fails to submit a correct claim schedule to the
37 Controller within 30 days of receipt of a notice of refund or other
38 payment due, and fails to issue payment within 45 days from the
39 notice of refund or other payment due, shall be liable for penalties
40 on the undisputed amount pursuant to this section. The penalties

1 shall be paid out of the agency's funds at a rate equal to the Pooled
2 Money Investment Account daily rate on June 30 of the prior fiscal
3 year minus 1 percent. The penalties shall cease to accrue on the
4 date full payment or refund is made. If the amount of the penalty
5 is ten dollars (\$10) or less, the penalty shall be waived and not
6 paid by the state agency. On an exception basis, state agencies
7 may avoid payment of penalties for failure to submit a correct
8 claim schedule to the Controller by paying the claimant directly
9 from the state agency's revolving fund within 45 calendar days
10 following the agency's receipt of the notice of refund or other
11 payment due.

12 (b) The Controller shall pay claimants within 15 calendar days
13 of receipt of a correct claim schedule from the state agency. If the
14 Controller fails to make payment within 15 calendar days of receipt
15 of the claim schedule from a state agency, and payment is not
16 issued within 45 calendar days following the agency's receipt of
17 a notice of refund or undisputed payment due, the Controller shall
18 pay applicable penalties to the claimant. Penalties shall cease to
19 accrue on the date full payment is made, and shall be paid out of
20 the Controller's funds. If the amount of the penalty is ten dollars
21 (\$10) or less, the penalty shall be waived and not paid by the
22 Controller.

23 (c) No person shall receive an interest payment pursuant to this
24 section if it is determined that the person has intentionally overpaid
25 on a liability solely for the purpose of receiving a penalty payment.

26 (d) No penalty shall accrue during any time period for which
27 there is no Budget Act in effect, nor on any payment or refund that
28 is the result of a federally mandated program or that is directly
29 dependent upon the receipt of federal funds by a state agency.

30 (e) This section shall not apply to any of the following:

31 (1) Payments, refunds, or credits for income tax purposes.

32 (2) Payment of claims for reimbursement for health care services
33 or mental health services provided under the Medi-Cal program,
34 pursuant to Chapter 7 (commencing with Section 14000) of Part
35 3 of Division 9 of the Welfare and Institutions Code.

36 (3) Any payment made pursuant to a public social service or
37 public health program to a recipient of benefits under that program.

38 (4) Payments made on claims by the California Victim
39 Compensation and Government Claims Board.

40 (5) Payments made by the Commission on State Mandates.

(6) Payments made by the Department of Human Resources pursuant to Section 19823.

SEC. 32. Section 1150 of the Government Code is amended to read:

1150. As used in this article:

(a) “State employee” means all persons who receive wages for services through the uniform payroll system established and administered by the Controller under Section 12470.

(b) “Public agency” includes counties, cities, municipal corporations, political subdivisions, public districts, and other public agencies of the state.

(c) “Employee organization” means an organization which represents employees of the state or the California State University in their employer-employee relations, and which is registered with the Department of Human Resources or the Trustees of the California State University, or which has been recognized or certified by the Public Employment Relations Board.

(d) “Bona fide association” means an organization of employees and former employees of an agency of the state and the California State University, and which does not have as one of its purposes representing these employees in their employer-employee relations.

(e) “Deduction” does not include direct deposit by electronic fund transfer, as authorized by Sections 7506 and 12480.

SEC. 33. Section 1156 of the Government Code is amended to read:

1156. (a) Any eligible employee who is participating in a flexible benefits program may elect to receive one or more benefits that qualify to be excluded from gross income in lieu of a portion of his or her salary.

(b) For purposes of this section, an “eligible employee” means any of the following:

(1) An employee excluded from the definition of “state employee” in Section 3513.

(2) A “managerial employee” as defined in Section 3513.

(3) A “confidential employee” as defined in Section 3513 and Section 3562.

(4) A “supervisory employee” as defined in Section 3580.3.

(5) An officer or employee of the State of California in the executive or judicial branch of government who is not a state civil

1 service employee pursuant to Part 2 (commencing with Section
2 18500) of Division 5 of Title 2.

3 (6) A “state employee,” as defined by Section 3513 or employed
4 by the state as provided for in Article VI of the Constitution.

5 (c) Any eligible employee participating in the flexible benefits
6 program shall be subject to federal laws and implementing
7 regulations of the Department of Human Resources which affects
8 the flexible benefit program throughout the period of the
9 employee’s enrollment.

10 (d) Unless the trustee or the administrator of the state’s flexible
11 benefit program is the Controller or another state officer, that
12 program shall be administered in compliance with the federal
13 Employee Retirement Income Security Act of 1974 (ERISA: 29
14 U.S.C. Sec. 1001 et seq.).

15 (e) As a condition of participating in a flexible benefits program,
16 each eligible employee shall provide evidence, in a manner
17 satisfactory to the Department of Human Resources, that the
18 employee is covered by a basic health benefits plan, and his or her
19 agreement to remain covered for the period of participation in the
20 flexible benefits plan.

21 (f) There is in the State Treasury the Flexelect Benefit Fund
22 which, notwithstanding Section 13340, is continuously appropriated
23 without regard to fiscal years to the Department of Human
24 Resources for expenditure to implement the flexible benefits
25 program and to pay the related administrative costs. The fund shall
26 consist of the amounts received from state employee compensation
27 excluded from gross income and transmitted to the Flexelect
28 Benefit Fund, income of whatever nature earned on the money in
29 the Flexelect Benefit Fund during any fiscal year and credited to
30 the fund, and amounts appropriated therefor in the annual Budget
31 Act and other statutes.

32 (g) On or after July 1, 1990, any funds remaining in the State
33 Employees’ Dependent Care Assistance and Health Care Assistance
34 Fund shall be transmitted into the account in the Flexelect Benefit
35 Fund for the administrative expenses of the Controller’s office to
36 pay the related administrative costs.

37 SEC. 34. Section 1156.1 of the Government Code is amended
38 to read:

39 1156.1. (a) Any eligible employee may elect to participate in
40 the State Employees’ Pretax Parking Payroll Deduction Program.

1 The program shall be administered by the Department of Human
2 Resources. An amount equivalent to the value of the parking, to
3 the extent permitted by Internal Revenue Code Section 132, shall
4 be excluded from the gross income of the employee, in lieu of a
5 portion of the employee's compensation, and shall be transmitted
6 to the State Employees' Pretax Parking Fund. Each eligible
7 employee electing to participate in the program, for the period that
8 he or she is enrolled as a participant in the program, shall be subject
9 to the applicable federal law and regulations and related state
10 administrative regulations adopted by the Department of Human
11 Resources.

12 (b) For purposes of this section, an "eligible employee" means
13 any of the following:

14 (1) A "state employee," as defined in Section 3513.

15 (2) An "excluded employee," as defined in Section 3527.

16 (3) An officer or employee of the State of California in the
17 executive branch of government who is not a state civil service
18 employee pursuant to Part 2 (commencing with Section 18500) of
19 Division 5 of Title 2.

20 (c) There is in the State Treasury the State Employees' Pretax
21 Parking Fund which, notwithstanding Section 13340, is
22 continuously appropriated without regard to fiscal years to the
23 Department of Human Resources for expenditure to implement
24 the State Employees' Pretax Parking Payroll Deduction Program.
25 The fund shall consist of the amounts received from employee
26 compensation excluded from gross income and transmitted to the
27 State Employees' Pretax Parking Fund pursuant to subdivision
28 (a).

29 ~~SEC. 35. Section 3513 of the Government Code is amended~~
30 ~~to read:~~

31 ~~3513. As used in this chapter:~~

32 ~~(a) "Employee organization" means any organization that~~
33 ~~includes employees of the state and that has as one of its primary~~
34 ~~purposes representing these employees in their relations with the~~
35 ~~state.~~

36 ~~(b) "Recognized employee organization" means an employee~~
37 ~~organization that has been recognized by the state as the exclusive~~
38 ~~representative of the employees in an appropriate unit.~~

39 ~~(c) "State employee" means any civil service employee of the~~
40 ~~state, and the teaching staff of schools under the jurisdiction of the~~

1 State Department of Education or the Superintendent of Public
2 Instruction, except managerial employees, confidential employees,
3 supervisory employees, employees of the Department of Human
4 Resources, professional employees of the Department of Finance
5 engaged in technical or analytical state budget preparation other
6 than the auditing staff, professional employees in the
7 Personnel/Payroll Services Division of the Controller's office
8 engaged in technical or analytical duties in support of the state's
9 personnel and payroll systems other than the training staff,
10 employees of the Legislative Counsel Bureau, employees of the
11 Bureau of State Audits, employees of the office of the Inspector
12 General, employees of the board, conciliators employed by the
13 State Conciliation Service within the Department of Industrial
14 Relations, employees of the Office of the State Chief Information
15 Officer except as otherwise provided in Section 11546.5, and
16 intermittent athletic inspectors who are employees of the State
17 Athletic Commission.

18 (d) "Mediation" means effort by an impartial third party to assist
19 in reconciling a dispute regarding wages, hours and other terms
20 and conditions of employment between representatives of the
21 public agency and the recognized employee organization or
22 recognized employee organizations through interpretation,
23 suggestion and advice.

24 (e) "Managerial employee" means any employee having
25 significant responsibilities for formulating or administering agency
26 or departmental policies and programs or administering an agency
27 or department.

28 (f) "Confidential employee" means any employee who is
29 required to develop or present management positions with respect
30 to employer-employee relations or whose duties normally require
31 access to confidential information contributing significantly to the
32 development of management positions.

33 (g) "Supervisory employee" means any individual, regardless
34 of the job description or title, having authority, in the interest of
35 the employer, to hire, transfer, suspend, lay off, recall, promote,
36 discharge, assign, reward, or discipline other employees, or
37 responsibility to direct them, or to adjust their grievances, or
38 effectively to recommend this action, if, in connection with the
39 foregoing, the exercise of this authority is not of a merely routine
40 or clerical nature, but requires the use of independent judgment.

1 Employees whose duties are substantially similar to those of their
2 subordinates shall not be considered to be supervisory employees.

3 (h) “Board” means the Public Employment Relations Board.
4 The Educational Employment Relations Board established pursuant
5 to Section 3541 shall be renamed the Public Employment Relations
6 Board as provided in Section 3540. The powers and duties of the
7 board described in Section 3541.3 shall also apply, as appropriate,
8 to this chapter.

9 (i) “Maintenance of membership” means that all employees
10 who voluntarily are, or who voluntarily become, members of a
11 recognized employee organization shall remain members of that
12 employee organization in good standing for a period as agreed to
13 by the parties pursuant to a memorandum of understanding,
14 commencing with the effective date of the memorandum of
15 understanding. A maintenance of membership provision shall not
16 apply to any employee who within 30 days prior to the expiration
17 of the memorandum of understanding withdraws from the
18 employee organization by sending a signed withdrawal letter to
19 the employee organization and a copy to the Controller’s office.

20 (j) “State employer,” or “employer,” for the purposes of
21 bargaining or meeting and conferring in good faith, means the
22 Governor or his or her designated representatives.

23 (k) “Fair share fee” means the fee deducted by the state
24 employer from the salary or wages of a state employee in an
25 appropriate unit who does not become a member of and financially
26 support the recognized employee organization. The fair share fee
27 shall be used to defray the costs incurred by the recognized
28 employee organization in fulfilling its duty to represent the
29 employees in their employment relations with the state, and shall
30 not exceed the standard initiation fee, membership dues, and
31 general assessments of the recognized employee organization.

32 ~~SEC. 36.~~

33 *SEC. 35.* Section 3517.63 of the Government Code is amended
34 to read:

35 3517.63. (a) Any side letter, appendix, or other addendum to
36 a properly ratified memorandum of understanding that requires
37 the expenditure of two hundred fifty thousand dollars (\$250,000)
38 or more related to salary and benefits and that is not already
39 contained in the original memorandum of understanding or the
40 Budget Act, shall be provided by the Department of Human

1 Resources to the Joint Legislative Budget Committee. The Joint
2 Legislative Budget Committee shall determine within 30 days after
3 receiving the side letter, appendix, or other addendum if it presents
4 substantial additions that are not reasonably within the parameters
5 of the original memorandum of understanding and thereby requires
6 legislative action to ratify the side letter, appendix, or other
7 addendum.

8 (b) A side letter, appendix, or other addendum to a properly
9 ratified memorandum of understanding that does not require the
10 expenditure of funds shall be expressly identified by the
11 Department of Human Resources if that side letter, appendix, or
12 other addendum is to be incorporated in a subsequent memorandum
13 of understanding submitted to the Legislature for approval.

14 ~~SEC. 37. Section 3527 of the Government Code is amended~~
15 ~~to read:~~

16 ~~3527. As used in this chapter:~~

17 (a) ~~“Employee” means a civil service employee of the State of~~
18 ~~California. The “State of California” as used in this chapter~~
19 ~~includes such state agencies, boards, and commissions as may be~~
20 ~~designated by law that employ civil service employees, except the~~
21 ~~University of California, Hastings College of the Law, and the~~
22 ~~California State University.~~

23 (b) ~~“Excluded employee,” means all managerial employees, as~~
24 ~~defined in subdivision (e) of Section 3513, all confidential~~
25 ~~employees, as defined in subdivision (f) of Section 3513, and all~~
26 ~~supervisory employees, as defined in subdivision (g) of Section~~
27 ~~3513, and all civil service employees of the Department of Human~~
28 ~~Resources, professional employees of the Department of Finance~~
29 ~~engaged in technical or analytical state budget preparation other~~
30 ~~than the auditing staff, professional employees in the~~
31 ~~Personnel/Payroll Services Division of the Controller’s office~~
32 ~~engaged in technical or analytical duties in support of the state’s~~
33 ~~personnel and payroll systems other than the training staff,~~
34 ~~employees of the Legislative Counsel Bureau, employees of the~~
35 ~~Bureau of State Audits, employees of the Public Employment~~
36 ~~Relations Board, conciliators employed by the State Conciliation~~
37 ~~Service within the Department of Industrial Relations, employees~~
38 ~~of the office of the State Chief Information Officer except as~~
39 ~~provided in Section 11546.5, and intermittent athletic inspectors~~
40 ~~who are employees of the State Athletic Commission.~~

1 (e) ~~“Supervisory employee organization” means an organization~~
2 ~~that represents members who are supervisory employees under~~
3 ~~subdivision (g) of Section 3513.~~

4 (d) ~~“Excluded employee organization” means an organization~~
5 ~~that includes excluded employees of the state, as defined in~~
6 ~~subdivision (b), and that has as one of its primary purposes~~
7 ~~representing its members in employer-employee relations.~~
8 ~~Excluded employee organization includes supervisory employee~~
9 ~~organizations.~~

10 (e) ~~“State employer” or “employer,” for purposes of meeting~~
11 ~~and conferring on matters relating to supervisory~~
12 ~~employer-employee relations, means the Governor or his or her~~
13 ~~designated representatives.~~

14 ~~SEC. 38.~~

15 *SEC. 36.* Section 3535 of the Government Code is amended
16 to read:

17 3535. The Department of Human Resources may adopt rules
18 and regulations for the administration of excluded
19 employer-employee relations, including supervisory
20 employer-employee relations, under these provisions. Such rules
21 and regulations may include provisions for:

22 (a) Verifying that an excluded employee organization does in
23 fact represent excluded employees.

24 (b) Verifying the official status of excluded employee
25 organization officers and representatives.

26 (c) Access of excluded employee organization officers and
27 representatives to work locations.

28 (d) Use of official bulletin boards and other means of
29 communication by excluded employee organizations.

30 (e) Furnishing nonconfidential information pertaining to
31 excluded employee relations to excluded employee organizations.

32 (f) Any other matters as are necessary to carry out the purposes
33 of this chapter.

34 ~~SEC. 39.~~

35 *SEC. 37.* Section 3537 of the Government Code is amended
36 to read:

37 3537. Every excluded employee organization shall submit an
38 annual registration statement on or before July 1 of each calendar
39 year to the Department of Human Resources. The registration
40 statement shall, at a minimum, list the name of the organization,

1 its affiliations, headquarters, and other business addresses, its
2 principal business telephone number, a list of principal officers
3 and representatives, and a copy of its organization bylaws.

4 ~~SEC. 40.~~

5 *SEC. 38.* Section 3539.5 of the Government Code is amended
6 to read:

7 3539.5. (a) The Department of Human Resources may adopt
8 or amend regulations to implement employee benefits for those
9 state officers and employees excluded from, or not otherwise
10 subject to, the Ralph C. Dills Act (Chapter 10.3 (commencing with
11 Section 3512)).

12 (b) These regulations shall not be subject to the review and
13 approval of the Office of Administrative Law pursuant to the
14 Administrative Procedure Act (Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2). These regulations
16 shall become effective immediately upon filing with the Secretary
17 of State.

18 ~~SEC. 41.~~

19 *SEC. 39.* Section 3541 of the Government Code is amended
20 to read:

21 3541. (a) There is in state government the Public Employment
22 Relations Board which shall be independent of any state agency
23 and shall consist of five members. The members of the board shall
24 be appointed by the Governor by and with the advice and consent
25 of the Senate. One of the original members shall be chosen for a
26 term of one year, one for a term of three years, and one for a term
27 of five years. The first term for the two new members of the board
28 resulting from the expansion of the board to five members shall
29 be reduced by the Governor as necessary so that the term of only
30 one member of the board shall expire in any given year. Thereafter,
31 terms shall be for a period of five years, except that any person
32 chosen to fill a vacancy shall be appointed only for the unexpired
33 term of the member whom he or she succeeds. Members of the
34 board shall be eligible for reappointment. The Governor shall select
35 one member to serve as chairperson. A member of the board may
36 be removed by the Governor upon notice and hearing for neglect
37 of duty or malfeasance in office, but for no other cause.

38 (b) A vacancy in the board shall not impair the right of the
39 remaining members to exercise all the powers of the commission,

1 and three members of the board shall at all times constitute a
2 quorum.

3 (c) The board may delegate its powers to any group of three or
4 more board members. Nothing shall preclude any board member
5 from participating in any case pending before the board.

6 (d) Members of the board shall hold no other public office in
7 the state, and shall not receive any other compensation for services
8 rendered.

9 (e) Each member of the board shall receive the salary provided
10 for by Chapter 6 (commencing with Section 11550) of Part 1 of
11 Division 3 of Title 2. In addition to his or her salary, each member
12 of the board shall be reimbursed for all actual and necessary
13 expenses incurred by him or her in the performance of his or her
14 duties, subject to the rules of the Department of Human Resources
15 relative to the payment of these expenses to state officers generally.

16 (f) The board shall appoint an executive director who shall be
17 the chief administrative officer. The executive director shall appoint
18 other persons that may, from time to time, be deemed necessary
19 for the performance of the board's administrative functions,
20 prescribe their duties, fix their compensation, and provide for
21 reimbursement of their expenses in the amounts made available
22 therefor by appropriation. The executive director shall be a person
23 familiar with employer-employee relations. The executive director
24 shall be subject to removal at the pleasure of the board. The
25 Governor shall appoint a general counsel, upon the
26 recommendation of the board, to assist the board in the
27 performance of its functions under this chapter. The general counsel
28 shall serve at the pleasure of the board.

29 (g) The executive director and general counsel serving the board
30 on December 31, 1977, shall become employees of the Public
31 Employment Relations Board and shall continue to serve at the
32 discretion of the board. A person so employed may, independently
33 of the Attorney General, represent the board in any litigation or
34 other matter pending in a court of law to which the board is a party
35 or in which it is otherwise interested.

36 (h) The Governor shall appoint one legal adviser for each
37 member of the board upon the recommendation of that board
38 member. Each appointee shall serve at the pleasure of the
39 recommending board member and shall receive a salary as shall

1 be fixed by the board with the approval of the Department of
2 Human Resources.

3 (i) Attorneys serving the board on May 19, 1978, shall not be
4 appointed as legal advisers to board members pursuant to
5 subdivision (h) until the time that they have attained permanent
6 civil service status.

7 (j) Notwithstanding subdivision (a), the member of the board
8 appointed by the Governor for the term beginning on January 1,
9 1991, shall not be subject to the advice and consent of the Senate.

10 ~~SEC. 42.~~

11 *SEC. 40.* Section 3572.1 of the Government Code is amended
12 to read:

13 3572.1. This section shall apply only to the California Maritime
14 Academy.

15 (a) The duty to engage in meeting and conferring requires the
16 parties to begin meeting and conferring at least 60 days prior to
17 the expiration of memoranda of understanding, or May 1, if earlier,
18 of any year in which a memorandum shall expire, or May 1, if
19 there is no existing memorandum of understanding. The trustees
20 shall maintain close liaison with the Department of Finance and
21 the Legislature relative to the meeting and conferring on provisions
22 of the written memoranda that have fiscal ramifications.

23 No written memoranda reached pursuant to this chapter that
24 require budgetary or curative action by the Legislature or other
25 funding agencies, including the Federal Maritime Administration,
26 shall be effective unless and until that action has been taken.
27 Following execution of written memoranda of understanding, an
28 appropriate request for financing or budgetary funding for all
29 state-funded employees or for necessary legislation will be
30 forwarded promptly to the Legislature and the Governor or other
31 funding agencies. When memoranda require legislative action
32 pursuant to this section, if the Legislature or the Governor fails
33 fully to fund the memoranda or to take the requisite curative action,
34 the entire memoranda shall be referred back to the parties for
35 further meeting and conferring; provided, however, that the parties
36 may agree that provisions of the memoranda that are nonbudgetary
37 and do not require funding shall take effect whether or not the
38 funding requests submitted to the Legislature are approved.

39 The Legislature recognizes that the California Maritime
40 Academy's sources of funding are multiple, and approval by the

1 Legislature, and by other public agencies, as to employees funded
2 by those agencies, may be required prior to implementation of
3 increased expenditures resulting from agreements reached in
4 accordance with this chapter.

5 (b) The Legislature finds that federal funding in support of the
6 California Maritime Academy is essential. The trustees may
7 suspend or modify any provision of a memorandum of
8 understanding that jeopardizes federal funding, but shall provide
9 notice to exclusive representatives of any such suspension or
10 modification and shall meet and confer with the exclusive
11 representative, if requested to do so, to explain the need for, and
12 the effects of, the suspension or modification.

13 (c) Any memorandum of understanding that is in effect at the
14 time that the employer-employee relations of the California
15 Maritime Academy is transferred from the Ralph C. Dills Act
16 (Chapter 10.3 (commencing with Section 3512) of Division 4 of
17 Title 1), to the Higher Education Employer-Employee Relations
18 Act (Chapter 12 (commencing with Section 3560) of Division 4
19 of Title 1), shall remain in effect until the end of the term of the
20 memorandum of understanding, upon extension of the contracts
21 in existence on June 30, 1995, or until superseded by a new
22 memorandum of understanding.

23 (d) If agreement is reached to extend existing memoranda of
24 understanding covering California Maritime Academy employees
25 beyond the current June 30, 1995, expiration date, then any
26 decisions, agreements, or settlements made by the California State
27 University in the administration of the memoranda of understanding
28 relative to employees of the California Maritime Academy shall
29 not be binding upon, or considered as precedent required to be
30 followed by, the Department of Human Resources.

31 (e) This section shall become operative on July 1, 1995.

32 ~~SEC. 43.~~

33 *SEC. 41.* Section 7507 of the Government Code is amended
34 to read:

35 7507. (a) For the purpose of this section:

36 (1) "Actuary" means an actuary who is an associate or fellow
37 of the Society of Actuaries.

38 (2) "Future annual costs" includes, but is not limited to, annual
39 dollar changes, or the total dollar changes involved when available,
40 as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits.

1 The adoption of any benefit to which this section applies shall not
2 be placed on a consent calendar.

3 (d) Upon the adoption of any benefit change to which this
4 section applies, the person with the responsibilities of a chief
5 executive officer in an entity providing the benefit, however that
6 person is denominated, shall acknowledge in writing that he or
7 she understands the current and future cost of the benefit as
8 determined by the actuary. For the adoption of benefit changes by
9 the state, this person shall be the Director of Human Resources.

10 (e) The requirements of this section do not apply to a school
11 district or a county office of education, which shall instead comply
12 with requirements regarding public notice of, and future cost
13 determination for, benefit changes that have been enacted to
14 regulate these entities. These requirements include, but are not
15 limited to, those enacted by Chapter 1213 of the Statutes of 1991
16 and by Chapter 52 of the Statutes of 2004.

17 ~~SEC. 44.~~

18 *SEC. 42.* Section 8546 of the Government Code is amended
19 to read:

20 8546. It is the intent of the Legislature that the Bureau of State
21 Audits have the independence necessary to conduct all of its audits
22 in conformity with “Government Auditing Standards” published
23 by the Comptroller General of the United States and the standards
24 published by the American Institute of Certified Public
25 Accountants, free from influence of existing state control agencies
26 that could be the subject of audits conducted by the bureau.
27 Therefore, all of the following exclusions apply to the office:

28 (a) Notwithstanding Section 19790, the State Auditor shall
29 establish an equal employment opportunity program that shall
30 meet the criteria and objectives established by the State Personnel
31 Board. The State Auditor shall report annually to the State
32 Personnel Board and the commission regarding the program.

33 (b) Notwithstanding Section 12470, the State Auditor shall be
34 responsible for maintaining its payroll system. In lieu of audits of
35 the uniform payroll system performed by the Controller or any
36 other department, the office shall contract pursuant to subdivision
37 (e) of Section 8544.5 for an annual audit of its payroll and financial
38 operations by an independent public accountant.

39 (c) Notwithstanding Section 13292, the State Auditor is
40 delegated the authority to establish and administer the fiscal and

1 administrative policies of the bureau in conformity with the State
2 Administrative Manual without oversight by the Department of
3 Finance, the Department of Information Technology, or any other
4 state agency.

5 (d) Notwithstanding Section 11032, the State Auditor may
6 approve actual and necessary traveling expenses for travel outside
7 the state for officers and employees of the bureau.

8 (e) Notwithstanding Section 11033, the State Auditor or officers
9 and employees of the bureau may be absent from the state on
10 business of the state upon approval of the State Auditor or Chief
11 Deputy State Auditor.

12 (f) Sections 11040, 11042, and 11043 shall not apply to the
13 Bureau of State Audits. The State Auditor may employ legal
14 counsel under those terms that he or she deems necessary to
15 conduct the legal business of, or render legal counsel to, the State
16 Auditor.

17 (g) The provisions and definitions of Article 2 (commencing
18 with Section 11342.510) of Chapter 3.5 of Division 3 shall not be
19 construed to include the Bureau of State Audits. The State Auditor
20 may adopt regulations necessary for the operation of the bureau
21 pursuant to the provisions of the Administrative Procedure Act
22 (Chapter 3.5 (commencing with Section 11340) of Division 3),
23 but these regulations shall not be subject to the review or approval
24 of the Office of Administrative Law.

25 (h) The State Auditor shall be exempt from all contract
26 requirements of the Public Contract Code that require oversight,
27 review, or approval by the Department of General Services or any
28 other state agency. The State Auditor may contract on behalf of
29 the State of California for goods and services that he or she deems
30 necessary for the furtherance of the purposes of the bureau.

31 (i) (1) Subject to Article VII of the California Constitution, the
32 State Auditor is delegated the authority to establish and administer
33 the personnel policies and practices of the Bureau of State Audits
34 in conformity with Part 2.6 (commencing with Section 19815) of
35 Division 5 of Title 2 without oversight or approval by the
36 Department of Human Resources.

37 (2) At the election of the State Auditor, officers and employees
38 of the bureau may participate in benefits programs administered
39 by the Department of Human Resources subject to the same
40 conditions for participation that apply to civil service employees

1 in other state agencies. For the purposes of benefits programs
2 administration only, the State Auditor is subject to the
3 determinations of the department. The Bureau of State Audits shall
4 reimburse the Department of Human Resources for the normal
5 administrative costs incurred by the Department of Human
6 Resources and for any extraordinary costs resulting from the
7 inclusion of the bureau employees in these state benefit programs.

8 ~~SEC. 45.~~

9 *SEC. 43.* Section 8870.4 of the Government Code is amended
10 to read:

11 8870.4. (a) Except as provided in subdivision (d), the members
12 of the Alfred E. Alquist Seismic Safety Commission shall serve
13 without compensation but shall be paid per diem expenses of one
14 hundred dollars (\$100) for each day's attendance at a meeting of
15 the commission, plus actual necessary travel expenses as
16 determined by Department of Human Resources rules.

17 (b) The members of the commission who represent the
18 California Emergency Management Agency, the California
19 Building Standards Commission, and the Division of the State
20 Architect shall be employees in good standing of those respective
21 entities. Any per diem and travel expenses of those members of
22 the commission shall be paid by the agencies that they represent
23 on the commission, in compliance with applicable conditions or
24 regulations set by the Department of Human Resources.

25 ~~SEC. 46.~~

26 *SEC. 44.* Section 8880.18 of the Government Code is amended
27 to read:

28 8880.18. Compensation and Expenses

29 Commissioners shall be compensated at the rate of one hundred
30 dollars (\$100) for each day they are engaged in commission
31 business. Commission members shall be reimbursed for actual
32 expenses incurred on commission business, including necessary
33 travel expenses as determined by the Department of Human
34 Resources.

35 ~~SEC. 47.~~

36 *SEC. 45.* Section 8903 of the Government Code is amended
37 to read:

38 8903. When traveling to and from a session of the Legislature,
39 or when traveling to and from a meeting of a committee of which
40 he or she is a member, or when traveling pursuant to any other

1 legislative function or responsibility as authorized or directed by
2 the rules of the house of which he or she is a member or by the
3 joint rules, when that travel is by a common carrier of passengers,
4 a Member of the Legislature shall be entitled to reimbursement
5 for the actual costs of travel by the common carrier. If the member
6 travels by other means and common carrier service is available
7 and feasible he or she shall be reimbursed in the amount of the
8 fare of available common carrier service. If common carrier service
9 is unavailable or not feasible, a member shall be reimbursed at a
10 rate not to exceed the rate established by the Department of Human
11 Resources for the reimbursement of officers and employees of the
12 state pursuant to Section 19820. No mileage shall be allowed or
13 paid for travel in a conveyance owned or provided by and at the
14 expense of a public agency. As used in this section, “common
15 carrier” means carrier by aircraft, railroad, bus, or vessel.

16 ~~SEC. 48.~~

17 *SEC. 46.* Section 9149.4 of the Government Code is amended
18 to read:

19 9149.4. The members of the commission shall serve without
20 compensation, but shall receive reimbursement for travel and living
21 expenses in connection with their official duties, at rates established
22 by the Department of Human Resources.

23 ~~SEC. 49.~~ Section 11270 of the Government Code is amended
24 to read:

25 ~~11270. As used in this article, “administrative costs” means~~
26 ~~the amounts expended by the Legislature, the Legislative Counsel~~
27 ~~Bureau, the office of the Governor, the office of the State Chief~~
28 ~~Information Officer, the Office of Planning and Research, the~~
29 ~~Department of Justice, the office of the Controller, the office of~~
30 ~~the Treasurer, the State Personnel Board, the Department of~~
31 ~~Finance, the Office of Administrative Law, the Department of~~
32 ~~Human Resources, the Secretary of the State and Consumer~~
33 ~~Services Agency, the Secretary of the California Health and Human~~
34 ~~Services Agency, the Bureau of State Audits, and the California~~
35 ~~State Library, and a proration of any other cost to or expense of~~
36 ~~the state for services or facilities provided for the Legislature and~~
37 ~~the above agencies, for supervision or administration of the state~~
38 ~~government or for services to other state agencies.~~

39 ~~SEC. 50.~~ Section 11552 of the Government Code is amended
40 to read:

1 ~~11552. (a) Effective January 1, 1988, an annual salary of~~
2 ~~eighty-five thousand four hundred two dollars (\$85,402) shall be~~
3 ~~paid to each of the following:~~

- 4 ~~(1) Commissioner of Financial Institutions.~~
- 5 ~~(2) Commissioner of Corporations.~~
- 6 ~~(3) Director of Transportation.~~
- 7 ~~(4) Real Estate Commissioner.~~
- 8 ~~(5) Director of Social Services.~~
- 9 ~~(6) Director of Water Resources.~~
- 10 ~~(7) Chief Deputy Secretary for Adult Operations of the~~
11 ~~Department of Corrections and Rehabilitation.~~
- 12 ~~(8) Director of General Services.~~
- 13 ~~(9) Director of Motor Vehicles.~~
- 14 ~~(10) Chief Deputy Secretary for Juvenile Justice in the~~
15 ~~Department of Corrections and Rehabilitation.~~
- 16 ~~(11) Executive Officer of the Franchise Tax Board.~~
- 17 ~~(12) Director of Employment Development.~~
- 18 ~~(13) Director of Alcoholic Beverage Control.~~
- 19 ~~(14) Director of Housing and Community Development.~~
- 20 ~~(15) Director of Alcohol and Drug Programs.~~
- 21 ~~(16) Director of Statewide Health Planning and Development.~~
- 22 ~~(17) Director of Human Resources.~~
- 23 ~~(18) Director of Health Care Services.~~
- 24 ~~(19) Director of Mental Health.~~
- 25 ~~(20) Director of Developmental Services.~~
- 26 ~~(21) State Public Defender.~~
- 27 ~~(22) Director of the California State Lottery.~~
- 28 ~~(23) Director of Fish and Game.~~
- 29 ~~(24) Director of Parks and Recreation.~~
- 30 ~~(25) Director of Rehabilitation.~~
- 31 ~~(26) Director of the Office of Administrative Law.~~
- 32 ~~(27) Director of Consumer Affairs.~~
- 33 ~~(28) Director of Forestry and Fire Protection.~~
- 34 ~~(29) The Inspector General pursuant to Section 6125 of the~~
35 ~~Penal Code.~~
- 36 ~~(30) Director of Child Support Services.~~
- 37 ~~(31) Director of Industrial Relations.~~
- 38 ~~(32) Chief Deputy Secretary for Adult Programs in the~~
39 ~~Department of Corrections and Rehabilitation.~~
- 40 ~~(33) Director of Toxic Substances Control.~~

1 ~~(34) Director of Pesticide Regulation.~~

2 ~~(35) Director of Managed Health Care.~~

3 ~~(36) Director of Environmental Health Hazard Assessment.~~

4 ~~(37) Director of Technology.~~

5 ~~(38) Director of California Bay-Delta Authority.~~

6 ~~(39) Director of California Conservation Corps.~~

7 ~~(b) The annual compensation provided by this section shall be~~
8 ~~increased in any fiscal year in which a general salary increase is~~
9 ~~provided for state employees. The amount of the increase provided~~
10 ~~by this section shall be comparable to, but shall not exceed, the~~
11 ~~percentage of the general salary increases provided for state~~
12 ~~employees during that fiscal year.~~

13 ~~SEC. 51.~~

14 *SEC. 47.* Section 11565.5 of the Government Code is amended
15 to read:

16 11565.5. Notwithstanding Sections 11553, 11553.5, 11555,
17 11556, 11563.7, and 11564, with respect to any salary increase
18 made after January 1, 1997, for nonelected members of state boards
19 and commissions specified in Sections 11553, 11553.5, 11555,
20 11556, 11563.7, and 11564, the annual compensation provided by
21 these sections shall not automatically increase but may be increased
22 in any fiscal year in which there is a general increase in the salary
23 ranges and rates for state civil service classifications. The amount
24 of the increase, as determined by the Department of Human
25 Resources and subject to the appropriation of funds by the
26 Legislature in the annual Budget Act, shall not exceed the
27 percentage of the general increase in the salary rates and ranges
28 for classifications provided during that fiscal year for state
29 employees designated as managerial.

30 ~~SEC. 52.~~

31 *SEC. 48.* Section 12010.6 of the Government Code is amended
32 to read:

33 12010.6. (a) The purpose of this section is to increase the
34 Governor's managerial flexibility without increasing costs. It is
35 the intent of the Legislature that positions designated as exempt
36 from civil service by this section shall be filled by a Governor's
37 appointment only after they are vacated by civil service employees.

38 (b) The Governor may designate as exempt from civil service
39 positions in the executive agencies over which he has line
40 responsibility and which have civil-service-exempt officers and

1 employees appointed pursuant to subdivision (f) or (g) of Section
2 4 of Article VII of the California Constitution; provided that the
3 designations shall be limited to positions covered by these
4 subdivisions and shall not cause the total number of positions
5 exempted under these subdivisions to exceed one-half of 1 percent
6 of the number of full-time equivalent positions in these agencies
7 collectively.

8 (c) The Governor may appoint a person to a position designated
9 as exempt from civil service pursuant to this section only after the
10 position is no longer held by a civil service employee.

11 (d) Positions designated by the Governor as exempt from civil
12 service pursuant to this section shall be limited to those designated
13 as managerial positions under Section 3513 by the Department of
14 Human Resources.

15 (e) The authority to designate positions as exempt from civil
16 service shall not result in the displacement of civil service
17 employees and shall not result in hiring additional employees into
18 positions not authorized in the Budget Act.

19 (f) The Department of Human Resources shall report to the Joint
20 Legislative Audit Committee by January 31 of each year the current
21 percentage of civil-service-exempt officers and employees in state
22 service.

23 ~~SEC. 53.~~

24 *SEC. 49.* Section 12012.85 of the Government Code is amended
25 to read:

26 12012.85. There is hereby created in the State Treasury a fund
27 called the “Indian Gaming Special Distribution Fund” for the
28 receipt and deposit of moneys received by the state from Indian
29 tribes pursuant to the terms of tribal-state gaming compacts. These
30 moneys shall be available for appropriation by the Legislature for
31 the following purposes:

32 (a) Grants, including any administrative costs, for programs
33 designed to address gambling addiction.

34 (b) Grants, including any administrative costs, for the support
35 of state and local government agencies impacted by tribal
36 government gaming.

37 (c) Compensation for regulatory costs incurred by the State
38 Gaming Agency and the Department of Justice in connection with
39 the implementation and administration of tribal-state gaming
40 compacts.

(d) Payment of shortfalls that may occur in the Indian Gaming Revenue Sharing Trust Fund. This shall be the priority use of moneys in the Indian Gaming Special Distribution Fund.

(e) Disbursements for the purpose of implementing the terms of tribal labor relations ordinances promulgated in accordance with the terms of tribal-state gaming compacts ratified pursuant to Chapter 874 of the Statutes of 1999. No more than 10 percent of the funds appropriated in the Budget Act of 2000 for implementation of tribal labor relations ordinances promulgated in accordance with those compacts shall be expended in the selection of the Tribal Labor Panel. The Department of Human Resources shall consult with and seek input from the parties prior to any expenditure for purposes of selecting the Tribal Labor Panel. Other than the cost of selecting the Tribal Labor Panel, there shall be no further disbursements until the Tribal Labor Panel, which is selected by mutual agreement of the parties, is in place.

(f) Any other purpose specified by law.

(g) Priority for funding from the Indian Gaming Special Distribution Fund is in the following descending order:

(1) An appropriation to the Indian Gaming Revenue Sharing Trust Fund in an aggregate amount sufficient to make payments of any shortfalls that may occur in the Indian Gaming Revenue Sharing Trust Fund.

(2) An appropriation to the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs for problem gambling prevention programs.

(3) The amount appropriated in the annual Budget Act for allocation between the Department of Justice and the California Gambling Control Commission for regulatory functions that directly relates to Indian gaming.

(4) An appropriation for the support of local government agencies impacted by tribal gaming.

~~SEC. 54.~~

SEC. 50. Section 13332.07 of the Government Code is amended to read:

13332.07. No funds shall be used to purchase furnishings for any house, mobilehome, or apartment of three or more rooms other than a dormitory that is rented to a state employee. This provision shall not apply to the purchase of refrigerators, heaters, air-conditioning equipment, stoves, linoleum, or equipment

1 normally furnished in the construction of a house, as may be
2 determined by the Department of Human Resources. It is the intent
3 of the Legislature that furnishings are not to be provided by the
4 state and that no moneys shall be paid from any appropriation for
5 their replacement or repair, except in connection with the disposal
6 thereof.

7 ~~SEC. 55.~~

8 *SEC. 51.* Section 14876 of the Government Code is amended
9 to read:

10 14876. (a) Pressmen, typographers, linotypers, compositors,
11 bookbinders, lithographers, engravers, apprentices and assistants
12 and all other employees of the Office of State Printing employed
13 in allied work shall be paid on an hourly wage basis. The basic
14 wage of those employees shall be the prevailing hourly wage paid
15 to persons identified by the Department of Human Resources to
16 be in similar and comparable employment by private printers in
17 the major metropolitan areas in California. The Department of
18 Human Resources shall accept and give validity to certified copies
19 of agreed upon contracts submitted by either the employer, the
20 employer group, or the employee organization.

21 The Department of Human Resources shall survey only major
22 employers where there are agreed upon contracts. If any agreed
23 upon contract contains any provision or provisions that do not
24 reflect the actual practice of the employer, the Department of
25 Human Resources shall disregard the provision or provisions.

26 If the Department of Human Resources finds that salary
27 relationships between surveyed classes do not accurately reflect
28 relationships in duties and responsibilities of employees of the
29 Office of State Printing, the department shall adjust those wage
30 rates on an equitable basis notwithstanding the survey findings.

31 As used in this section, prevailing wages and prevailing benefits
32 means wages and benefits arrived at through negotiation between
33 an employer or employer organization and an employee
34 organization that is the bona fide representative of the employer's
35 employees and certified as the bona fide representative by the
36 Director of Industrial Relations. In order to be so certified, the
37 employee organization shall be free from employer influence and
38 domination.

39 (b) In addition to these wages, and the rights and privileges
40 afforded state employees under the provisions of the State Civil

1 Service Act, and other statutes, there shall be paid to each employee
2 of the Office of State Printing, either directly or to a health and
3 welfare fund on his or her behalf, an amount equal to the prevailing
4 individual contributions paid to health and welfare plans for
5 employees in similar and comparable employment by private
6 printers in the major metropolitan areas. Where those contracts do
7 not disclose the dollar value of health and welfare benefits, the
8 state shall provide the same or substantially the same level of
9 benefits as provided for in the agreed upon contracts. Any
10 adjustments made pursuant to subdivisions (a) and (b) of this
11 section shall be effective as of March 1, 1977, and each March 1,
12 thereafter.

13 (c) As an alternative to subdivision (b), a person first employed
14 to any position described in subdivision (a) after October 1, 1977,
15 may elect to become an “employee” as defined in paragraph (5)
16 of subdivision (a) of Section 22772 within 90 days of commencing
17 that employment.

18 Any person who is a member of a health and welfare plan
19 described in subdivision (b) who loses eligibility for participation
20 in the plan, or if the plan of which the person is a member ceases
21 to exist, that person may elect to become an “employee,” as defined
22 in paragraph (5) of subdivision (a) of Section 22772, within 90
23 days of the date that eligibility is lost or the plan ceases to exist.

24 (d) In no instance shall the wages and the health and welfare
25 contributions paid by the state to the persons covered under this
26 section be less than the dollar amount paid as of the effective date
27 of this section.

28 (e) If the provisions of this section are in conflict with the
29 provisions of a memorandum of understanding reached pursuant
30 to Section 3517.5, the memorandum of understanding shall be
31 controlling without further legislative action, except that if the
32 provisions of a memorandum of understanding require the
33 expenditure of funds, the provisions may not become effective
34 unless approved by the Legislature in the annual Budget Act.

35 ~~SEC. 56.~~

36 SEC. 52. Section 14998.3 of the Government Code is amended
37 to read:

38 14998.3. (a) The commission shall submit a list of
39 recommended candidates for the position of Director of the Film

1 Commission to the Governor for consideration. The Governor
2 shall appoint the director.

3 (b) The Director of the Film Commission shall receive a salary
4 to be determined by the Department of Human Resources.

5 (c) The secretary, or his or her designee, shall act as the director
6 during the absence from the state or other temporary absence,
7 disability, or unavailability of the director, or during a vacancy in
8 that position.

9 ~~SEC. 57.~~

10 *SEC. 53.* Section 16649.94 of the Government Code is amended
11 to read:

12 16649.94. This chapter shall not apply to any Internal Revenue
13 Code Section 457, 401(k), or 403(b) defined contribution plan
14 administered by the Department of Human Resources.

15 ~~SEC. 58.~~

16 *SEC. 54.* Section 18000.5 of the Government Code is amended
17 to read:

18 18000.5. (a) Notwithstanding Sections 18000 and 19990, any
19 officer or employee of the state may receive for his or her personal
20 use compensation from any nonprofit corporation formed
21 exclusively to aid and assist an entity described in subdivision (b)
22 for services rendered to the nonprofit corporation and for his or
23 her expenses of performing these services, provided that the
24 nonprofit corporation obtains the prior written approval of the
25 Department of Human Resources to provide the compensation to
26 any officer or employee and files with the Controller and the
27 Department of Human Resources by September 30 of each year a
28 statement disclosing the names of state officers and employees
29 compensated and their respective amounts of compensation for
30 the preceding fiscal year, and the giving or receipt of the
31 compensation is not in violation of any state or federal law. Any
32 subsequent changes to the compensation for any officer or
33 employee provided under this section must be approved by the
34 Department of Human Resources.

35 The board of directors of the entities described in subdivision
36 (b) shall determine whether the services are incompatible with the
37 state responsibilities of the officer or employee and whether the
38 services rendered to the nonprofit corporation interfere with the
39 officer's or employee's full-time obligation to the state. The board
40 of directors of the entities described in subdivision (b) also shall

1 review any issues of compliance of the nonprofit corporation with
2 the terms of any contractual arrangements with the state
3 independently of the officer's or employee's receiving
4 compensation from the nonprofit corporation.

5 (b) Any officer or employee of the state may be compensated,
6 as described in subdivision (a), by a nonprofit corporation formed
7 to aid and assist any of the following entities:

8 (1) A state museum.

9 (2) A district agricultural association, as provided for in Section
10 3951 of the Food and Agricultural Code.

11 ~~SEC. 59.~~

12 *SEC. 55.* Section 18573 of the Government Code is amended
13 to read:

14 18573. Each appointing power shall report promptly to the
15 board and the Department of Human Resources such information
16 as the board may require in connection with each appointment,
17 separation from service, or other change in position or salary, or
18 other matter affecting the status of positions or the performance
19 of duties of employees in the state civil service. The reports shall
20 be prepared in the manner and form prescribed by the board.

21 Information given to the board and the Department of Human
22 Resources by any person shall not be open to public inspection
23 except under conditions prescribed by board rule, except that a
24 person may inspect any record relating to his or her own services.

25 ~~SEC. 60.~~

26 *SEC. 56.* Section 18574 of the Government Code is amended
27 to read:

28 18574. All officers and employees of the state and any county,
29 city, district, or other subdivision of the state recognized by law
30 shall aid in all proper ways in carrying this part and the board rules
31 into effect, allow the reasonable use of public buildings, and heat
32 and light them for the purpose of making examinations of
33 applicants and holding hearings and investigations under this part.
34 Officers and employees shall afford to the board and the
35 Department of Human Resources, or the board's or department's
36 authorized representatives, all reasonable facilities, permit
37 inspection of all books and papers applying or in any way
38 appertaining to all offices subject to the authority of the state,
39 produce the books or papers, and attend and testify when required
40 so to do.

~~SEC. 61.~~

SEC. 57. Section 18706 of the Government Code is amended to read:

18706. The board may make agreements with personnel agencies in other jurisdictions, political subdivisions, and state agencies excepted from the state civil service.

~~SEC. 62.~~

SEC. 58. Section 18707 of the Government Code is amended to read:

18707. The board and the Department of Human Resources may enter into agreements to make available their services and facilities, upon request, to any county, city, district or other subdivision of the state recognized by law, and to state agencies excepted from the state civil service, and they may enter into agreements for the exchange of personnel services or the utilization of the services and facilities. The agreements shall be approved by the Director of General Services.

~~SEC. 63.~~

SEC. 59. Section 18708 of the Government Code is amended to read:

18708. The board shall cooperate with the Director of Finance, the Department of Human Resources, the California Victim Compensation and Government Claims Board, the Controller, and other state agencies, in matters not covered by this part, and not inconsistent with this part, to promote the efficient and economical administration of the state's business.

~~SEC. 64.~~

SEC. 60. Section 18711 of the Government Code is amended to read:

18711. The board and the Department of Human Resources may join associations of personnel agencies having as their purpose the interchanging or supplying of information relating to the technique of personnel administration.

~~SEC. 65.~~

SEC. 61. Section 18714 of the Government Code is amended to read:

18714. (a) Nothing in this part shall preclude the Department of Human Resources from providing by rule for a system of adjusting employee grievances which shall be administered within

1 the departments before recourse to any remedy provided in this
2 part.

3 (b) If the provisions of this section are in conflict with the
4 provisions of a memorandum of understanding reached pursuant
5 to Section 3517.5, the memorandum of understanding shall be
6 controlling without further legislative action, except that if such
7 provisions of a memorandum of understanding require the
8 expenditure of funds, the provisions shall not become effective
9 unless approved by the Legislature in the annual Budget Act.

10 ~~SEC. 66.~~

11 *SEC. 62.* Section 18717 of the Government Code is amended
12 to read:

13 18717. (a) The board shall develop objective criteria for
14 determining the application of the state safety category of
15 membership in the Public Employees' Retirement System to
16 positions in the state civil service. Upon the request of the
17 Department of Human Resources or an employee organization,
18 the board shall then determine which classes of positions meet all
19 or part of the elements of the criteria and shall list the positions in
20 order based upon the degree in which their duties meet the criteria.
21 An employee organization that requests a determination with
22 respect to a class of position previously determined not to meet
23 the criteria shall submit a written argument supporting the assertion
24 that the class of position meets the criteria. The board, if it finds
25 the written argument to be unpersuasive, may refuse to commence
26 determination proceedings unless and until either the Department
27 of Human Resources requests a determination with respect to that
28 class of position or the employee organization submits to the board
29 a supporting argument which the board finds persuasive. The board
30 shall indicate to the department whether the classes qualify for
31 state safety membership. The Public Employees' Retirement
32 System and employing agencies shall assist and cooperate with
33 the board in preparation of the report.

34 (b) The board shall transmit the report directly to the department,
35 which shall make a copy available to the exclusive representative
36 of any employee organization upon its written request.

37 (c) The department may use the results of the study in
38 subsequent negotiations with the exclusive employee
39 representatives; however, the report shall in no way obligate the

1 department to take any action or make any recommendations as it
2 relates to state safety membership.

3 (d) The department shall not recommend safety membership
4 for any class of employees who have not been determined by the
5 board to meet the established criteria.

6 (e) For classes of employees recommended for state safety
7 membership by a memorandum of understanding reached pursuant
8 to Section 3517.5, a copy of the report authorized under this section
9 shall be submitted to the Legislature with the signed memorandum
10 of understanding.

11 (f) This section does not apply to state employees who are
12 subject to Sections 19816.20 and 20405.1.

13 ~~SEC. 67.~~

14 *SEC. 63.* Section 18801.1 of the Government Code is amended
15 to read:

16 18801.1. The Department of Human Resources shall designate
17 managerial positions, as defined in subdivision (e) of Section 3513,
18 and shall report those designations to the board annually. Any
19 disputes as to the managerial classification or position designations
20 may be appealed to the State Personnel Board.

21 ~~SEC. 68.~~

22 *SEC. 64.* Section 18802 of the Government Code is amended
23 to read:

24 18802. From time to time as it deems necessary, the board may
25 establish additional classes and divide, combine, alter, or abolish
26 existing classes. In establishing, altering, or abolishing classes, the
27 board shall consider the recommendations of the Department of
28 Human Resources. When those actions are taken the board shall
29 determine in each instance whether positions affected are to be
30 reallocated to another class or classes after taking into account the
31 duties and responsibilities, qualifications, performance standards,
32 and other related criteria before and after the change, and shall
33 determine the status of the probationary and permanent employees
34 affected.

35 ~~SEC. 69.~~

36 *SEC. 65.* Section 18904 of the Government Code is amended
37 to read:

38 18904. For each class there shall be maintained a separate
39 departmental reemployment list within a given state agency, which
40 shall consist of the names of persons on the general reemployment

list but employed in that state agency at the time of separation. There shall also be maintained a separate subdivisional reemployment list within a given state agency which shall consist of the names of persons employed in a subdivision of a state agency at the time of separation if subdivisions for that state agency have been set up with the approval of the Department of Human Resources for layoff purposes.

~~SEC. 70.~~

SEC. 66. Section 18905 of the Government Code is amended to read:

18905. The order in which names appear on reemployment lists shall be determined by the relative order of the scores determined as for layoff in accordance with Section 19997.3 and Department of Human Resources rules.

~~SEC. 71.~~

SEC. 67. Section 19134 of the Government Code is amended to read:

19134. (a) Personal services contracts entered into by a state agency in accordance with Section 19130 for persons providing janitorial and housekeeping services, custodians, food service workers, laundry workers, window cleaners, and security guard services shall include provisions for employee wages and benefits that are valued at least 85 percent of the state employer cost of wages and benefits provided to state employees for performing similar duties.

(b) For purposes of this section, “benefits” includes “health, dental, retirement, and vision benefits, and holiday, sick, and vacation pay.”

(c) (1) The Department of Human Resources shall establish annually the state employer wage and benefit costs for workers covered pursuant to this section.

(2) Benefit costs shall be established using rates based on single employee, employee plus one dependent, and employee plus two or more dependents, or the costs may be based on a blended rate, subject to the determination of the Department of Human Resources.

(d) In lieu of providing actual benefits, contractors may comply with this section by a cash payment to employees equal to the applicable determination under subdivision (c).

1 (e) Failure to provide benefits or cash in lieu to employees as
2 required under this section shall be deemed to be a material breach
3 for any contract for personal services covered by this section.

4 (f) The Department of General Services and the Department of
5 Human Resources may adopt guidelines and regulations to
6 implement the requirements of this section.

7 (g) This section applies to all contracts exceeding 90 days.

8 (h) Holiday pay shall be provided to employees of contractors
9 providing services specified in subdivision (a) on any state holiday
10 that the state facility in which the services are being provided is
11 closed.

12 (i) This section also applies to wages and benefits of employees
13 of subcontractors providing services specified in subdivision (a)
14 in state-leased facilities where the facility is at least 50,000 square
15 feet in area and the state leases all of the occupied floorspace of
16 the facility.

17 (j) With the exception of subdivision (h), this section does not
18 apply to personal services contracts for the services described in
19 subdivision (a) performed by employees of nonprofit organizations
20 that are employed in accordance with any of the following:

21 (1) A special license issued pursuant to Section 1191.5 of the
22 Labor Code.

23 (2) A special certificate issued pursuant to Section 214 of Title
24 29 of the United States Code.

25 (3) A community rehabilitation plan described in Sections 19152
26 and 19404 of the Welfare and Institutions Code.

27 (4) A habilitation services program as described in Sections
28 19352 and 19356.6 of the Welfare and Institutions Code.

29 ~~SEC. 72.~~

30 *SEC. 68.* Section 19172 of the Government Code is amended
31 to read:

32 19172. During the probationary period the appointing power
33 or his or her officially delegated representative shall evaluate the
34 work and efficiency of a probationer in the manner and at such
35 periods as the Department of Human Resources rules may require.

36 ~~SEC. 73.~~

37 *SEC. 69.* Section 19253.5 of the Government Code is amended
38 to read:

39 19253.5. (a) In accordance with board rule, the appointing
40 power may require an employee to submit to a medical examination

1 by a physician or physicians designated by the appointing power
2 to evaluate the capacity of the employee to perform the work of
3 his or her position.

4 (b) Fees for the examination and for the services of medical
5 specialists or technicians, if necessary, shall be paid by the state
6 agency. The employee may submit medical or other evidence to
7 the examining physician or to the appointing power. The examining
8 physician shall make a written report of the examination to the
9 appointing power. The appointing power shall provide a copy to
10 the physician designated by the employee.

11 (c) When the appointing power, after considering the
12 conclusions of the medical examination and other pertinent
13 information, concludes that the employee is unable to perform the
14 work of his or her present position, but is able to perform the work
15 of another position including one of less than full time, the
16 appointing power may demote or transfer the employee to such a
17 position.

18 Except as authorized by the Department of Human Resources
19 under Section 19837, the employee demoted or transferred pursuant
20 to this section shall receive the maximum of the salary range of
21 the class to which he or she is demoted or transferred, provided
22 that the salary is not greater than the salary he or she received at
23 the time of his or her demotion or transfer.

24 (d) When the appointing power after considering the conclusions
25 of the medical examination provided for by this section or medical
26 reports from the employee's physician, and other pertinent
27 information, concludes that the employee is unable to perform the
28 work of his or her present position, or any other position in the
29 agency, and the employee is not eligible or waives the right to
30 retire for disability and elects to withdraw his or her retirement
31 contributions or to permit his or her contributions to remain in the
32 retirement fund with rights to service retirement, the appointing
33 power may terminate the appointment of the employee.

34 (e) The appointing power may demote, transfer, or terminate
35 an employee under this section without requiring the employee to
36 submit to a medical examination when the appointing power relies
37 upon a written statement submitted to the appointing power by the
38 employee as to the employee's condition or upon medical reports
39 submitted to the appointing power by the employee.

1 (f) The employee shall be given written notice of any demotion,
2 transfer, or termination under this section at least 15 days prior to
3 the effective date thereof. No later than 15 days after service of
4 the notice, the employee may appeal the action of the appointing
5 power to the board. The board, in accordance with its rules, shall
6 hold a hearing. The board may sustain, disapprove, or modify the
7 demotion, transfer, or termination.

8 (g) Whenever the board revokes or modifies a demotion,
9 transfer, or termination, the board shall direct the payment of salary
10 to the employee calculated on the same basis and using the same
11 standards as provided in Section 19584.

12 (h) Upon the request of an appointing authority or the petition
13 of the employee who was terminated, demoted, or transferred in
14 accordance with this section, the employee shall be reinstated to
15 an appropriate vacant position in the same class, in a comparable
16 class or in a lower related class if it is determined by the board
17 that the employee is no longer incapacitated for duty. Such a
18 reinstatement to a position in a different agency may be made only
19 with the concurrence of that agency. In approving or ordering the
20 reinstatements, the board may require the satisfactory completion
21 of a new probationary period. When the board finds the employee
22 who was terminated, demoted, or transferred is no longer
23 incapacitated for duty but there is no vacant position to which the
24 employee appropriately can be appointed, the name of the
25 employee shall be placed upon those reemployment lists that are
26 determined to be appropriate by the board.

27 (i) (1) If the appointing power, after considering the conclusions
28 of the medical examination provided for by this section or medical
29 reports from the employee's physician and other pertinent
30 information, concludes that the employee is unable to perform the
31 work of his or her present position or any other position in the
32 agency and the employee is eligible and does not waive the right
33 to retire for disability, the appointing power shall file an application
34 for disability retirement on the employee's behalf. The appointing
35 power shall give the employee 15 days written notice of its
36 intention to file such an application and a reasonable opportunity
37 to respond to the appointing power prior to the appointing power's
38 filing of the application. However, the appointing power's decision
39 to file the application is final and is not appealable to the State
40 Personnel Board.

(2) Notwithstanding Section 21153, upon filing the application for disability retirement, the appointing power may remove the employee from the job and place the employee on involuntary leave status. The employee may use any accrued leave eligible during the period of the involuntary leave. If the employee's leave credits and programs are exhausted or if they do not provide benefits at least equal to the estimated retirement allowance, the appointing power shall pay the employee an additional temporary disability allowance so that the employee receives payment equal to the retirement allowance. The appointing power shall continue to make all employer contributions to the employee's health plans during the period of the involuntary leave.

(3) If the application for disability retirement is subsequently granted, the retirement system shall reimburse the appointing power for the temporary disability allowance which shall be deducted from any back disability retirement benefits otherwise payable to the employee. If the application is denied, the appointing power shall reinstate the employee to his or her position with back salary and benefits pursuant to subdivision (g), less any temporary disability allowance paid by the appointing power. The appointing power shall also restore any leave credits the employee used during the period of the involuntary leave.

~~SEC. 74.~~

SEC. 70. Section 19261 of the Government Code is amended to read:

19261. (a) The Department of Human Resources may establish standards of health and safety in state agencies and may develop a comprehensive health and safety program designed to improve the efficiency and raise the morale of state employees.

Nothing in this section or in the standards established thereunder shall discriminate against treatment by prayer or spiritual means nor require physical examination of any employee who files with the board an affidavit setting forth that he or she depends exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he or she is to the best of his or her knowledge and belief in good health and that he or she claims exemption on such grounds, except that when there is probable cause to believe that such employee is not physically able to perform the duties of his or her employment, the board may require

1 a physical examination of the employee sufficient to indicate
2 whether or not he or she is able to perform the duties of his or her
3 employment.

4 (b) If the provisions of this section are in conflict with the
5 provisions of a memorandum of understanding reached pursuant
6 to Section 3517.5, the memorandum of understanding shall be
7 controlling without further legislative action, except that if such
8 provisions of a memorandum of understanding require the
9 expenditure of funds, the provisions shall not become effective
10 unless approved by the Legislature in the annual Budget Act.

11 ~~SEC. 75.~~

12 *SEC. 71.* Section 19573 is added to the Government Code, to
13 read:

14 19573. The Department of Human Resources may establish
15 disciplinary criteria applicable to adverse actions taken by
16 appointing bodies pursuant to the causes of discipline set forth in
17 Section 19572.

18 ~~SEC. 76.~~

19 *SEC. 72.* Section 19576.1 of the Government Code is amended
20 to read:

21 19576.1. Effective January 1, 1996, notwithstanding Section
22 19576, this section shall apply only to state employees in State
23 Bargaining Unit 5.

24 Whenever an answer is filed by an employee who has been
25 suspended without pay for five days or less or who has received
26 a formal reprimand or up to a five percent reduction in pay for five
27 months or less, the Department of Human Resources or its
28 authorized representative shall make an investigation, with or
29 without a hearing, as it deems necessary. However, if he or she
30 receives one of the cited actions in more than three instances in
31 any 12-month period, he or she, upon each additional action within
32 the same 12-month period, shall be afforded a hearing before the
33 State Personnel Board if he or she files an answer to the action.

34 The Department of Human Resources shall not have the above
35 authority with regard to formal reprimands. Formal reprimands
36 shall not be appealable by the receiving employee by any means,
37 except that the State Personnel Board, pursuant to its constitutional
38 authority, shall maintain its right to review all formal reprimands.
39 Formal reprimands shall remain available for use by the appointing
40 authorities for the purpose of progressive discipline.

1 Disciplinary action taken pursuant to this section is not subject
2 to Sections 19180, 19574.1, 19574.2, 19575, 19575.5, 19579,
3 19580, 19581, 19581.5, 19582, 19583, and 19587, or to State
4 Personnel Board Rules 51.1 to 51.9, inclusive, 52, and 52.1 to
5 52.5, inclusive.

6 Notwithstanding any other law or rule, if the provisions of this
7 section are in conflict with the provisions of the memorandum of
8 understanding reached pursuant to Section 3517.5, the
9 memorandum of understanding shall be controlling without further
10 legislative action, except that if the provisions of a memorandum
11 of understanding require the expenditure of funds, the provisions
12 shall not become effective unless approved by the Legislature in
13 the annual Budget Act.

14 ~~SEC. 77:~~

15 *SEC. 73.* Section 19582 of the Government Code is amended
16 to read:

17 19582. (a) Hearings may be held by the board, or by any
18 authorized representative, but the board shall render the decision
19 that in its judgment is just and proper.

20 During a hearing, after the appointing authority has completed
21 the opening statement or the presentation of evidence, the
22 employee, without waiving his or her right to offer evidence in the
23 event the motion is not granted, may move for a dismissal of the
24 charges.

25 If it appears that the evidence presented supports the granting
26 of the motion as to some but not all of the issues involved in the
27 action, the board or the authorized representative shall grant the
28 motion as to those issues and the action shall proceed as to the
29 issues remaining. Despite the granting of the motion, no judgment
30 shall be entered prior to a final determination of the action on the
31 remaining issues, and shall be subject to final review and approval
32 by the board.

33 (b) If a contested case is heard by an authorized representative,
34 he or she shall prepare a proposed decision in a form that may be
35 adopted as the decision in the case. A copy of the proposed decision
36 shall be filed by the board as a public record and furnished to each
37 party within 10 days after the proposed decision is filed with the
38 board. The board itself may adopt the proposed decision in its
39 entirety, may remand the proposed decision, or may reduce the

1 adverse action set forth therein and adopt the balance of the
2 proposed decision.

3 (c) If the proposed decision is not remanded or adopted as
4 provided in subdivision (b), each party shall be notified of the
5 action, and the board itself may decide the case upon the record,
6 including the transcript, with or without taking any additional
7 evidence, or may refer the case to the same or another authorized
8 representative to take additional evidence. If the case is so assigned
9 to an authorized representative, he or she shall prepare a proposed
10 decision as provided in subdivision (b) upon the additional
11 evidence and the transcript and other papers that are part of the
12 record of the prior hearing. A copy of the proposed decision shall
13 be furnished to each party. The board itself shall decide no case
14 provided for in this subdivision without affording the parties the
15 opportunity to present oral and written argument before the board
16 itself. If additional oral evidence is introduced before the board
17 itself, no board member may vote unless he or she heard the
18 additional oral evidence.

19 (d) In arriving at a decision or a proposed decision, the board
20 or its authorized representative may consider any prior suspension
21 or suspensions of the appellant by authority of any appointing
22 power, or any prior proceedings under this article.

23 (e) In arriving at a decision or a proposed decision, the board,
24 in exercising its discretion consistent with its authority under
25 Section 3 of Article VII of the California Constitution, shall give
26 consideration and respect to any applicable disciplinary criteria
27 established pursuant to Section 19573, and the extent to which the
28 employee's conduct resulted in, or if repeated is likely to result
29 in, harm to the public service, the circumstances surrounding the
30 offense or misconduct, and the likelihood of recurrence.

31 (f) The decision shall be in writing and contain findings of fact
32 and the adverse action, if any. The findings may be stated in the
33 language of the pleadings or by reference thereto. Copies of the
34 decision shall be served on the parties personally or by mail.

35 ~~SEC. 78.~~

36 *SEC. 74.* Section 19583 of the Government Code is amended
37 to read:

38 19583. The board shall render a decision within a reasonable
39 time after the hearing or investigation. The adverse action taken
40 by the appointing power shall stand unless modified or revoked

1 by the board. If the board finds that the cause or causes for which
2 the adverse action was imposed were insufficient or not sustained,
3 or that the employee was justified in the course of conduct upon
4 which the causes were based, it may modify or revoke the adverse
5 action and it may order the employee returned to his or her position
6 with appropriate restoration of backpay and lost benefits either as
7 of the date of the adverse action or as of such later date as it may
8 specify. The decision of the board shall be entered upon the minutes
9 of the board and the official roster. In arriving at a decision, the
10 board, in exercising its discretion consistent with its authority
11 under Section 3 of Article VII of the California Constitution, shall
12 give consideration and respect to any applicable disciplinary criteria
13 established pursuant to Section 19573.

14 ~~SEC. 79:~~

15 *SEC. 75.* Section 19592 of the Government Code is amended
16 to read:

17 19592. When action is taken under this article, the provisions
18 of this article and related board and Department of Human
19 Resources rules shall constitute the entire disciplinary action and
20 review process, except that the provisions of Sections 19574.1,
21 19583.5, and 19584 shall also apply in a manner consistent with
22 the provisions of this article.

23 ~~SEC. 80:~~

24 *SEC. 76.* Section 19608 of the Government Code, as added by
25 Section 24 of Chapter 88 of the Statutes of 1998, is repealed.

26 ~~SEC. 81:~~

27 *SEC. 77.* Section 19608 of the Government Code, as added by
28 Section 24 of Chapter 91 of the Statutes of 1998, is amended to
29 read:

30 19608. Any demonstration project implemented under this
31 chapter shall not include the adoption or waiver of regulations or
32 statutes that are administered or enforced by the Department of
33 Human Resources without the express approval of the Department
34 of Human Resources.

35 ~~SEC. 82:~~

36 *SEC. 78.* Section 19702 of the Government Code is repealed.

37 ~~SEC. 83:~~

38 *SEC. 79.* Section 19770 of the Government Code is amended
39 to read:

1 19770. (a) With the exception of Chapter 7.5 (commencing
2 with Section 400) of Part 1 of Division 2 of the Military and
3 Veterans Code, this part, rather than provisions of the Military and
4 Veterans Code, governs leave for military service, rights and
5 benefits accrued during that service, and reinstatement after that
6 service, for executive branch employees. Both the State Personnel
7 Board and the Department of Human Resources have
8 responsibilities for carrying out certain provisions of this chapter
9 as provided in subdivision (b).

10 (b) The State Personnel Board is responsible for the provisions
11 of this chapter pertaining to civil service examinations, list
12 eligibility, appointments, reinstatements, probationary periods,
13 and status. The Department of Human Resources is responsible
14 for the provisions of this chapter on eligibility for military leave
15 and the effect of these leaves on the employee's salary, vacation,
16 sick leave, and seniority.

17 (c) For the purposes of this chapter:

18 (1) "Employee" means that term as defined by subdivision (d)
19 of Section 19815.

20 (2) "Civil service employee" means an employee legally holding
21 a position in the state civil service.

22 (3) "Exempt employee" means an employee who is exempt
23 from the state civil service by Section 4 of Article VII of the
24 California Constitution.

25 ~~SEC. 84.~~

26 *SEC. 80.* Section 19775 of the Government Code is amended
27 to read:

28 19775. An employee who is granted a long-term military leave
29 of absence and who for a period of not less than one year
30 immediately prior to the effective date active duty begins has had
31 continuous state service as defined by Department of Human
32 Resources rule which is not broken by a permanent separation
33 shall be entitled to receive his or her salary or compensation for
34 the first 30 calendar days of active duty served during the absence.

35 ~~SEC. 85.~~

36 *SEC. 81.* Section 19775.1 of the Government Code is amended
37 to read:

38 19775.1. An employee who is granted a short-term military
39 leave of absence for active military duty, but not for inactive duty,
40 including, but not limited to, scheduled reserve drill periods, and

1 who for a period of not less than one year immediately prior to the
2 effective date of active duty has had continuous state service as
3 defined by Department of Human Resources rule that is not broken
4 by a permanent separation, or who has had continuous state service
5 immediately prior to the effective date of active duty not broken
6 by a permanent separation and sufficient recognized military
7 service that need not be contiguous to equal one year shall be
8 entitled to receive his or her salary or compensation for the first
9 30 calendar days of active duty served during the absence.

10 An employee who is granted emergency military leave under
11 Section 19773, shall receive his or her salary or compensation as
12 a state employee while going to, engaging in, and returning from
13 the duty. The employee shall not receive his or her salary or
14 compensation for more than 30 days each time he or she is granted
15 the emergency military leave.

16 ~~SEC. 86.~~

17 *SEC. 82.* Section 19775.15 of the Government Code is amended
18 to read:

19 19775.15. (a) In addition to the benefits provided pursuant to
20 Sections 19775 and 19775.1, an employee who, as a member of
21 the California National Guard or a United States military reserve
22 organization, is called into active duty as a result of the Iraq-Kuwait
23 crisis on or after August 2, 1990, shall have the benefits provided
24 for in subdivision (b).

25 (b) Any employee to which subdivision (a) applies, while on
26 active duty, shall, with respect to active duty served on or after
27 August 2, 1990, receive from the state, for a period not to exceed
28 180 calendar days, as part of his or her compensation both of the
29 following:

30 (1) The difference between the amount of his or her military
31 pay and allowances and the amount the employee would have
32 received as a state employee as determined by the Department of
33 Human Resources, including any merit raises which would
34 otherwise have been granted during the time the individual was
35 on active duty.

36 (2) All benefits which he or she would have received had he or
37 she not been called to active duty unless the benefits are prohibited
38 or limited by vendor contracts.

39 (c) Any individual receiving compensation pursuant to
40 subdivision (b) who does not return to state service within 60 days

1 of being released from active duty shall have that compensation
2 treated as a loan payable with interest at the rate earned on the
3 Pooled Money Investment Account. This subdivision shall not
4 apply to compensation received pursuant to Section 19775.

5 (d) This section shall not apply to any active duty served
6 voluntarily after the close of the Iraq-Kuwait crisis.

7 ~~SEC. 87.~~

8 *SEC. 83.* Section 19775.16 of the Government Code is amended
9 to read:

10 19775.16. (a) In addition to the benefits provided pursuant to
11 Sections 19775 and 19775.1, an employee who, as a member of
12 the California National Guard or a United States military reserve
13 organization, is called into active duty as a result of the Bosnia
14 crisis on or after November 21, 1995, shall have the benefits
15 provided for in subdivision (b).

16 (b) Any employee to which subdivision (a) applies, while on
17 active duty, shall, with respect to active duty served on or after
18 November 21, 1995, as a result of the Bosnia crisis, receive from
19 the state, for a period not to exceed 180 calendar days, as part of
20 his or her compensation both of the following:

21 (1) The difference between the amount of his or her military
22 pay and allowances and the amount the employee would have
23 received as a state employee as determined by the Department of
24 Human Resources, including any merit raises that would otherwise
25 have been granted during the time the individual was on active
26 duty.

27 (2) All benefits that he or she would have received had he or
28 she not been called to active duty unless the benefits are prohibited
29 or limited by vendor contracts.

30 (c) Any individual receiving compensation pursuant to
31 subdivision (b) who does not return to state service within 60 days
32 of being released from active duty shall have that compensation
33 treated as a loan payable with interest at the rate earned on the
34 Pooled Money Investment Account. This subdivision shall not
35 apply to compensation received pursuant to Section 19775.

36 (d) This section shall not apply to any active duty served
37 voluntarily after the close of the Bosnia crisis.

38 (e) Benefits provided under paragraph (1) of subdivision (b)
39 shall only be provided to an employee who was not eligible to
40 participate in the federal Ready Reserve Mobilization Income

1 Insurance Program (10 U.S.C. Sec. 12521 et seq.) or a successor
2 federal program that, in the determination of the Director of Human
3 Resources, is substantively similar to the federal Ready Reserve
4 Mobilization Income Insurance Program. For an employee eligible
5 to participate in the federal Ready Reserve Mobilization Income
6 Insurance Program or a successor program, and whose monthly
7 salary as a state employee was higher than the sum of his or her
8 military pay and allowances and the maximum allowable benefit
9 under the federal Ready Reserve Mobilization Income Insurance
10 Program or a successor program, the employee shall receive the
11 amount payable under paragraph (1) of subdivision (b), but that
12 amount shall be reduced by the maximum allowable benefit under
13 the federal Ready Reserve Mobilization Income Insurance Program
14 or a successor program. For individuals who elected the federal
15 Ready Reserve Mobilization Income Insurance Program, the state
16 shall reimburse for the cost of the insurance premium for the period
17 of time on active duty, not to exceed 180 calendar days.

18 ~~SEC. 88.~~

19 *SEC. 84.* Section 19775.17 of the Government Code is amended
20 to read:

21 19775.17. (a) In addition to the benefits provided pursuant to
22 Sections 19775 and 19775.1, a state employee who, as a member
23 of the California National Guard or a United States military reserve
24 organization, is ordered to active duty by Presidential determination
25 that it is necessary to augment the active forces for any operational
26 mission, or when in time of national emergency declared by the
27 President or otherwise authorized by law, shall have the benefits
28 provided for in subdivision (b).

29 (b) Any state employee to which subdivision (a) applies, while
30 on active duty, shall receive from the state, for the duration of the
31 event as authorized pursuant to Sections 12302 and 12304 of Title
32 10 of the United States Code, but not for more than 180 calendar
33 days, as part of his or her compensation both of the following:

34 (1) The difference between the amount of his or her military
35 pay and allowances and the amount the employee would have
36 received as a state employee, including any merit raises that would
37 otherwise have been granted during the time the individual was
38 on active duty. The amount an employee, as defined in Section
39 18526, would have received as a state employee, including any
40 merit raises that would otherwise have been granted during the

1 time the individual was on active duty, shall be determined by the
2 Department of Human Resources.

3 (2) All benefits that he or she would have received had he or
4 she not served on active duty unless the benefits are prohibited or
5 limited by vendor contracts.

6 (c) Any individual receiving compensation pursuant to
7 subdivision (b) who does not reinstate to state service following
8 active duty, shall have that compensation treated as a loan payable
9 with interest at the rate earned on the Pooled Money Investment
10 Account. This subdivision shall not apply to compensation received
11 pursuant to Section 19775.

12 (d) Benefits provided under paragraph (1) of subdivision (b)
13 shall only be provided to a state employee who was not eligible
14 to participate in a federally sponsored income protection program
15 for National Guard personnel or military reserve personnel, or
16 both, called into active duty, as determined by the Department of
17 Human Resources. For a state employee eligible to participate in
18 a federally sponsored income protection program, and whose
19 monthly salary as a state employee was higher than the sum of his
20 or her military pay and allowances and the maximum allowable
21 benefit under the federally sponsored income protection program,
22 the state employee shall receive the amount payable under
23 paragraph (1) of subdivision (b), but that amount shall be reduced
24 by the maximum allowable benefit under the federally sponsored
25 income protection program. For individuals who elected the
26 federally sponsored income protection program, the state shall
27 reimburse for the cost of the insurance premium for the period of
28 time on active duty, not to exceed 180 calendar days.

29 (e) For purposes of this section, “state employee” means an
30 employee as defined in Section 18526 or an officer or employee
31 of the legislative, executive, or judicial department of the state.

32 (f) This section shall not apply to any state employee entitled
33 to additional compensation or benefits pursuant to Section
34 19775.16 or 19775.18 of this code, or Section 395.08 of the
35 Military and Veterans Code.

36 ~~SEC. 89.~~

37 *SEC. 85.* Section 19775.18 of the Government Code is amended
38 to read:

39 19775.18. (a) In addition to the benefits provided pursuant to
40 Sections 19775 and 19775.1, a state employee who, as a member

1 of the California National Guard or a United States military reserve
2 organization, is ordered to active duty on and after September 11,
3 2001, as a result of the War on Terrorism, shall have the benefits
4 provided for in subdivision (b).

5 (b) Any state employee to which subdivision (a) applies, while
6 on active duty, shall receive from the state, for the duration of the
7 event known as the War on Terrorism, as authorized pursuant to
8 Sections 12302 and 12304 of Title 10 of the United States Code,
9 but not for more than 365 calendar days, as part of his or her
10 compensation both of the following:

11 (1) The difference between the amount of his or her military
12 pay and allowances and the amount the employee would have
13 received as a state employee, including any merit raises that would
14 otherwise have been granted during the time the individual was
15 on active duty. The amount an employee, as defined in Section
16 18526, would have received as a state employee, including any
17 merit raises that would otherwise have been granted during the
18 time the individual was on active duty, shall be determined by the
19 Department of Human Resources.

20 (2) All benefits that he or she would have received had he or
21 she not served on active duty unless the benefits are prohibited or
22 limited by vendor contracts.

23 (c) Any individual receiving compensation pursuant to
24 subdivision (b) who does not reinstate to state service following
25 active duty, shall have that compensation treated as a loan payable
26 with interest at the rate earned on the Pooled Money Investment
27 Account. This subdivision does not apply to compensation received
28 pursuant to Section 19775.

29 (d) Benefits provided under paragraph (1) of subdivision (b)
30 shall only be provided to a state employee who was not eligible
31 to participate in a federally sponsored income protection program
32 for National Guard personnel or military reserve personnel, or
33 both, called into active duty, as determined by the Department of
34 Human Resources. For a state employee eligible to participate in
35 a federally sponsored income protection program, and whose
36 monthly salary as a state employee was higher than the sum of his
37 or her military pay and allowances and the maximum allowable
38 benefit under the federally sponsored income protection program,
39 the state employee shall receive the amount payable under
40 paragraph (1) of subdivision (b), but that amount shall be reduced

1 by the maximum allowable benefit under the federally sponsored
2 income protection program. For individuals who elected the
3 federally sponsored income protection program, the state shall
4 reimburse for the cost of the insurance premium for the period of
5 time on active duty, not to exceed 365 calendar days.

6 (e) The Governor may, by executive order, extend the period
7 of time for the receipt of benefits provided pursuant to this section
8 by no more than an additional 1,460 calendar days.

9 (f) (1) “Military pay and allowances” for the purposes of this
10 section does not include hazardous duty pay, hostile fire pay, or
11 imminent danger pay. A state employee is entitled to retain these
12 and any other special and incentive pay provided by the federal
13 government.

14 (2) “State employee” for the purposes of this section means an
15 employee as defined in Section 18526 or an officer or employee
16 of the legislative, executive, or judicial department of the state.

17 (g) This section does not apply to any state employee entitled
18 to additional compensation or benefits pursuant to Section
19 19775.16 or 19775.17 of this code, or Section 395.08 of the
20 Military and Veterans Code.

21 (h) This section does not apply to any active duty served after
22 the close of the War on Terrorism.

23 ~~SEC. 90.~~

24 ~~SEC. 86.~~ The heading of Chapter 1 (commencing with Section
25 19815) of Part 2.6 of Division 5 of Title 2 of the Government Code
26 is amended to read:

27
28 CHAPTER 1. DEPARTMENT OF HUMAN RESOURCES
29

30 ~~SEC. 91.~~ ~~Section 19815 of the Government Code is amended~~
31 ~~to read:~~

32 ~~19815. As used in this part:~~

33 (a) ~~“Department” means the Department of Human Resources.~~

34 (b) ~~“Director” means the Director of Human Resources.~~

35 (c) ~~“Division” means the Division of Labor Relations.~~

36 (d) ~~“Employee” or “state employee,” except where otherwise~~
37 ~~indicated, means employees subject to the Ralph C. Dills Act~~
38 ~~(Chapter 10.3 (commencing with Section 3512), Division 4, Title~~
39 ~~1), supervisory employees as defined in subdivision (g) of Section~~
40 ~~3513, managerial employees as defined in subdivision (e) of~~

~~Section 3513, confidential employees as defined in subdivision (f) of Section 3513, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the Public Employment Relations Board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, employees of the Department of Human Resources, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than audit staff, intermittent athletic inspectors who are employees of the State Athletic Commission, professional employees in the Personnel/Payroll Services Division of the Controller's office and all employees of the executive branch of government who are not elected to office.~~

~~SEC. 92.~~

SEC. 87. Section 19815.2 of the Government Code is repealed.

~~SEC. 93.~~

SEC. 88. Section 19815.2 is added to the Government Code, to read:

19815.2. (a) The Department of Human Resources (CalHR) is hereby created following reorganization of state department, agencies, and boards in an effort to better serve the human resources and personnel needs of the state.

(b) Subject to Article VII of the California Constitution, the Department of Human Resources succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board as its designee with respect to the State Personnel Board's administrative and ministerial functions.

~~SEC. 94.~~

SEC. 89. Section 19815.41 of the Government Code is amended to read:

19815.41. (a) Notwithstanding subdivision (e) of Section 19815.4, this section shall apply to state employees in State Bargaining Unit 5, 6, or 8.

(b) The director shall hold nonmerit statutory appeal hearings, subpoena witnesses, administer oaths, and conduct investigations in accordance with Department of Human Resources Rule 599.859 (b)(2).

(c) The director may, at his or her discretion, hold hearings, subpoena witnesses, administer oaths, or conduct investigations

1 or appeals concerning other matters relating to the department's
2 jurisdiction.

3 (d) If the provisions of this section are in conflict with the
4 provisions of a memorandum of understanding reached pursuant
5 to Section 3517.5, the memorandum of understanding shall be
6 controlling without further legislative action, except that if the
7 provisions of a memorandum of understanding require the
8 expenditure of funds, the provisions shall not become effective
9 unless approved by the Legislature in the annual Budget Act.

10 ~~SEC. 95.~~

11 *SEC. 90.* Section 19815.8 of the Government Code is amended
12 to read:

13 19815.8. (a) No action or proceeding shall be brought by any
14 person having or claiming to have a cause of action or complaint
15 or ground for issuance of any complaint or legal remedy for wrongs
16 or grievances based on or related to any law administered by the
17 Department of Human Resources unless the action or proceeding
18 is commenced and served within one year after the cause of action
19 or complaint or ground for issuance of any writ or legal remedy
20 first arose. Such a person shall not be compensated for the time
21 subsequent to the date when the cause or ground arose unless the
22 action or proceeding is filed and served within 90 days after the
23 cause or ground arose. Where an appeal is taken from a decision
24 of the department, the cause of action does not arise until the final
25 decision of the department.

26 (b) Process directed to any officer or employee, or the
27 Department of Human Resources, in any action or proceeding
28 arising under this part, may be served upon the director or chief
29 counsel.

30 ~~SEC. 96.~~

31 *SEC. 91.* Section 19816.21 of the Government Code is amended
32 to read:

33 19816.21. (a) Notwithstanding Sections 18717 and 19816.20,
34 effective July 1, 2004, the following officers and employees, who
35 are in the following classifications or positions on or after July 1,
36 2004, shall be state safety members of the Public Employees'
37 Retirement System:

38 (1) State employees in State Bargaining Unit 7 (Protective
39 Services and Public Services) whose job classifications are subject
40 to state miscellaneous membership in the Public Employees'

1 Retirement System, unless otherwise excluded by a memorandum
2 of understanding.

3 (2) State employees in managerial, supervisory, or confidential
4 positions that are related to the job classifications described in
5 paragraph (1) and that are subject to state miscellaneous
6 membership in the Public Employees' Retirement System, provided
7 that the Department of Human Resources has approved their
8 inclusion.

9 (3) Officers and employees of the executive branch of state
10 government who are not members of the civil service and who are
11 in positions that are related to the job classifications described in
12 paragraph (1) and that are subject to state miscellaneous
13 membership in the Public Employees' Retirement System, provided
14 that the Department of Human Resources has approved their
15 inclusion.

16 (b) The department shall notify the Public Employees'
17 Retirement System of the classes or positions that become subject
18 to state safety membership under this section, as prescribed in
19 Section 20405.1.

20 ~~SEC. 97:~~

21 *SEC. 92.* Section 19816.22 of the Government Code is amended
22 to read:

23 19816.22. (a) It is the intent of the Legislature in providing
24 funds for the Human Resources Modernization Project, within the
25 Department of Human Resources' budget, to provide every state
26 agency with the tools necessary to recruit and retain its personnel.
27 The Human Resources Modernization Project integrates the
28 competencies, skills, and abilities of each employee across all
29 human resource programs. State agencies will use the services
30 developed by the Human Resources Modernization Project to
31 recruit, assess, select, and develop their personnel, as well as to
32 plan for the future, with performance management and succession
33 applications.

34 (b) Authority is hereby granted, to the extent otherwise permitted
35 by law, to the Department of Human Resources to assess special
36 funds, bond funds, and nongovernmental cost funds in sufficient
37 amounts to support the cost of the Human Resources Modernization
38 Project described in subdivision (a). The Director of Finance shall
39 determine the amount of the total assessment for each fund
40 periodically. Upon order of the Director of Finance, the moneys

1 authorized pursuant to this act shall be transferred by the
2 Controller, as needed, from each fund for a total amount not to
3 exceed the amounts authorized in the annual Budget Act.

4 ~~SEC. 98.~~

5 *SEC. 93.* Section 19819.5 of the Government Code is amended
6 to read:

7 19819.5. There is in the Department of Human Resources, the
8 Division of Labor Relations.

9 ~~SEC. 99.~~

10 *SEC. 94.* Section 19822.6 of the Government Code is amended
11 to read:

12 19822.6. There is hereby established a Child Care Fund to
13 which funds shall be allocated from the amount appropriated in
14 the annual Budget Act for employee compensation. The Child
15 Care Fund shall be used to encourage development of child care
16 programs for dependent children of state employees. These
17 programs may include financial assistance to aid in the
18 development of child care centers administered by either nonprofit
19 corporations formed by state employees or other child care
20 providers.

21 The Child Care Fund shall be administered by the Department
22 of Human Resources.

23 Upon the determination of the department, the funding shall
24 include, but not be limited to, cash grants.

25 The amount to be allocated and expended annually, from the
26 funds available for compensation increases, shall be determined
27 by the department. Notwithstanding Section 13340, the Child Care
28 Fund shall be available for expenditure without regard to fiscal
29 years through June 30, 1991, unless otherwise extended by statute
30 enacted prior to that date.

31 ~~SEC. 100.~~

32 *SEC. 95.* Section 19827.3 of the Government Code is amended
33 to read:

34 19827.3. In order for the state to recruit skilled firefighters for
35 the California Department of Forestry and Fire Protection, it is the
36 policy of the state to consider prevailing salaries and benefits prior
37 to making salary recommendations. In order to provide
38 comparability in pay, the Department of Human Resources shall
39 take into consideration the salary and benefits of other jurisdictions
40 employing 75 or more full-time firefighters who work in California.

1 ~~SEC. 101.~~

2 *SEC. 96.* Section 19829.5 of the Government Code is amended
3 to read:

4 19829.5. (a) The Department of Human Resources shall
5 provide a memorandum of understanding pursuant to Section
6 3517.5 to the Legislative Analyst who shall have 10 calendar days
7 from the date the tentative agreement is received to issue a fiscal
8 analysis to the Legislature. The Legislative Analyst may prioritize
9 the preparation of a fiscal analysis or report under this subdivision
10 among other workload, including the submission of multiple
11 memoranda of understanding. The memorandum of understanding
12 shall not be subject to legislative determination until either the
13 Legislative Analyst has presented a fiscal analysis of the
14 memorandum of understanding or until 10 calendar days has
15 elapsed since the memorandum was received by the Legislative
16 Analyst.

17 (b) Each memorandum of understanding submitted by the
18 department to the Legislative Analyst shall include the
19 department's analysis of costs and savings.

20 ~~SEC. 102.~~

21 *SEC. 97.* Section 19829.6 of the Government Code is amended
22 to read:

23 19829.6. The Department of Human Resources shall post, in
24 a clear and conspicuous manner on the department's Web site,
25 each memorandum of understanding that has been submitted to
26 the Legislature for determination pursuant to Section 3517.5 and
27 that has been ratified by the affected union membership. The
28 memorandum of understanding of the agreement reached between
29 the Governor and the recognized employee organization shall be
30 posted on the department's Web site in its entirety, with a
31 declaration that the memorandum has been submitted to the office
32 of the Legislative Analyst and the Legislature, including the date
33 of that submission. The department shall include on its Web site
34 posting a summary of the memorandum of understanding that is
35 the same summary provided to the Legislature by the department.

36 ~~SEC. 103.~~

37 *SEC. 98.* Section 19844.7 of the Government Code is amended
38 to read:

39 19844.7. (a) Pursuant to regulations adopted by the Department
40 of Human Resources, and subject to the collective bargaining

1 agreement between the state and the employee's exclusive
2 representative, a state employee who has been appointed as a
3 member of a precinct board and takes time off from state
4 employment to serve as a member of that precinct board on election
5 day shall receive payment of his or her regular wages or salary for
6 that election day, without forfeiting any compensation received
7 for his or her service as a precinct board member. As used in this
8 section, "state employee" does not include any officer or employee
9 appointed or employed by the Legislature, or any officer, deputy,
10 or employee selected or appointed by an elected state officer.

11 (b) The eligibility of a state employee to receive time off for
12 the purposes of subdivision (a) shall be subject to approval of the
13 employee's manager or supervisor and pursuant to the terms of
14 the collective bargaining agreement, when applicable.

15 (c) The Department of Human Resources shall adopt regulations
16 to implement this section. The regulations shall include, among
17 other things, consideration of such items as the impact of the
18 employee's absence on state services and operations and the
19 documentation necessary for a state employee to establish that he
20 or she has taken time off from state employment to serve as a
21 member of a precinct board and is therefore eligible to receive his
22 or her regular wages or salary as provided in subdivision (a). The
23 regulations required by this section shall be drafted and adopted
24 as soon as practicable.

25 ~~SEC. 104.~~

26 *SEC. 99.* Section 19849.11 of the Government Code is amended
27 to read:

28 19849.11. The Department of Human Resources, subject to
29 such conditions as it may establish, subject to existing statutes
30 governing health benefits and group term life insurance offered
31 through the Public Employees' Retirement System, and subject to
32 all other applicable provisions of state law, may enter into contracts
33 for the purchase of employee benefits with respect to managerial
34 and confidential employees as defined by subdivisions (e) and (f)
35 of Section 3513, and employees excluded from the definition of
36 state employee in subdivision (c) of Section 3513, and officers or
37 employees of the executive branch of government who are not
38 members of the civil service, and supervisory employees as defined
39 in subdivision (g) of Section 3513. Benefits shall include, but not
40 be limited to, group life insurance, group disability insurance,

1 long-term disability insurance, group automobile liability and
2 physical damage insurance, and homeowners' and renters'
3 insurance.

4 The department may self-insure the long-term disability
5 insurance program if it is cost effective to do so.

6 If it is determined that a self-insured long-term disability
7 insurance program will be established, the department shall provide
8 its cost analysis to the Joint Legislative Budget Committee at least
9 30 days prior to initiating the establishment of the program.

10 ~~SEC. 105.~~

11 *SEC. 100.* Section 19849.13 of the Government Code is
12 amended to read:

13 19849.13. Notwithstanding Sections 19839, 19858.1, 19858.3,
14 19858.4, 19859, and 19859.3, the Department of Human Resources
15 may provide for vacation, sick leave, annual leave, and
16 bereavement leave benefits, including the lump-sum payment of
17 any amount of accumulated leave, with respect to each state officer
18 and employee who either is excluded from the definition of state
19 employee in subdivision (c) of Section 3513, or is a nonelected
20 officer or employee of the executive branch of government who
21 is not a member of the civil service.

22 ~~SEC. 106.~~

23 *SEC. 101.* Section 19849.14 of the Government Code is
24 amended to read:

25 19849.14. Effective July 1, 1987, there is hereby established
26 in the State Treasury the Nonrepresented State Employee
27 Long-Term Disability Insurance Fund for the purpose of funding
28 nonrepresented state employee long-term disability insurance
29 benefits. Premiums derived from contributions by the employer
30 or employee shall be credited to the fund. Income of whatever
31 nature, earned on the Nonrepresented State Employee Long-Term
32 Disability Insurance Fund during any fiscal year, shall be credited
33 to the fund. Moneys in this fund are continuously appropriated
34 without regard to fiscal year, notwithstanding Section 13340. The
35 fund shall be used by the Department of Human Resources to pay
36 long-term disability claims and administrative costs.

37 ~~SEC. 107.~~

38 *SEC. 102.* Section 19849.16 of the Government Code is
39 amended to read:

1 19849.16. Notwithstanding Section 18000, the Department of
2 Human Resources may provide by rule for the accumulation and
3 use of paid leave, including a lump-sum payment for accumulated
4 leave, with respect to nonelected members of state boards and
5 commissions whose annual salaries are fixed by law. Any rules
6 adopted pursuant to this section shall provide for the reduction of
7 the salary fixed by law of those nonelected members of state boards
8 and commissions when their absences exceed their paid leave. The
9 Department of Human Resources shall not provide paid leave
10 benefits greater than the maximum benefits provided the employees
11 designated as managerial by the Department of Human Resources.
12 Rules adopted pursuant to this section shall take effect after July
13 1, 1991.

14 ~~SEC. 108.~~

15 *SEC. 103.* Section 19853 of the Government Code is amended
16 to read:

17 19853. (a) All state employees shall be entitled to the following
18 holidays: January 1, the third Monday in January, the third Monday
19 in February, March 31, the last Monday in May, July 4, the first
20 Monday in September, November 11, Thanksgiving Day, the day
21 after Thanksgiving, December 25, the day chosen by an employee
22 pursuant to Section 19854, and every day appointed by the
23 Governor of this state for a public fast, thanksgiving, or holiday.

24 (b) If a day listed in this subdivision falls on a Sunday, the
25 following Monday shall be deemed to be the holiday in lieu of the
26 day observed. If November 11 falls upon a Saturday, the preceding
27 Friday shall be deemed to be the holiday in lieu of the day
28 observed.

29 (c) Any state employee who may be required to work on any
30 of the holidays included in this section, and who does work on any
31 of these holidays, shall be entitled to receive straight-time pay and
32 eight hours of holiday credit.

33 (d) For the purpose of computing the number of hours worked,
34 time when an employee is excused from work because of holidays,
35 sick leave, vacation, annual leave, compensating time off, or any
36 other leave shall not be considered as time worked by the employee
37 for the purpose of computing cash compensation for overtime or
38 compensating time off for overtime.

39 (e) Any state employee, as defined in subdivision (c) of Section
40 3513, may elect to receive eight hours of holiday credit for the

1 fourth Friday in September, known as “Native American Day,” in
2 lieu of receiving eight hours of personal holiday credit in
3 accordance with Section 19854.

4 (f) Persons employed on less than a full-time basis shall receive
5 holidays in accordance with the Department of Human Resources
6 rules.

7 (g) If subdivision (a), (c), or (d) is in conflict with the provisions
8 of a memorandum of understanding executed or amended pursuant
9 to Section 3517.5 on or after February 1, 2009, or the date that the
10 act adding this section takes effect, whichever is later, the
11 memorandum of understanding shall be controlling without further
12 legislative action, except that if those provisions of the
13 memorandum of understanding require the expenditure of funds,
14 the provisions shall not become effective unless approved by the
15 Legislature in the annual Budget Act.

16 (h) This section shall become operative on February 1, 2009,
17 or the date that the act adding this section takes effect, whichever
18 is later.

19 ~~SEC. 109.~~

20 *SEC. 104.* Section 19853.1 of the Government Code is amended
21 to read:

22 19853.1. (a) Notwithstanding Section 19853, this section shall
23 apply to state employees in State Bargaining Unit 5.

24 (b) Except as provided in subdivision (c), all employees shall
25 be entitled to the following holidays: January 1, the third Monday
26 in January, the third Monday in February, March 31, the last
27 Monday in May, July 4, the first Monday in September, November
28 11, the day after Thanksgiving, December 25, and every day
29 appointed by the Governor of this state for a public fast,
30 thanksgiving, or holiday.

31 If a day listed in this subdivision falls on a Sunday, the following
32 Monday shall be deemed to be the holiday in lieu of the day
33 observed. If November 11 falls upon a Saturday, the preceding
34 Friday shall be deemed to be the holiday in lieu of the day
35 observed. Any employee who may be required to work on any of
36 the holidays included in this section and who does work on any
37 of these holidays shall be entitled to be paid compensation or given
38 compensating time off for that work in accordance with his or her
39 classification’s assigned workweek group.

1 (c) If the provisions of subdivision (b) are in conflict with the
2 provisions of a memorandum of understanding reached pursuant
3 to Section 3517.5, the memorandum of understanding shall be
4 controlling without further legislative action, except that if the
5 provisions of a memorandum of understanding require the
6 expenditure of funds, the provisions shall not become effective
7 unless approved by the Legislature in the annual Budget Act.

8 (d) Any employee who either is excluded from the definition
9 of state employee in subdivision (c) of Section 3513, or is a
10 nonelected officer or employee of the executive branch of
11 government who is not a member of the civil service, is entitled
12 to the following holidays, with pay, in addition to any official state
13 holiday appointed by the Governor:

14 (1) January 1, the third Monday in January, the third Monday
15 in February, March 31, the last Monday in May, July 4, the first
16 Monday in September, November 11, Thanksgiving Day, the day
17 after Thanksgiving, and December 25.

18 (2) When November 11 falls on a Saturday, employees shall be
19 entitled to the preceding Friday as a holiday with pay.

20 (3) When a holiday, other than a personal holiday, falls on a
21 Saturday, an employee shall, regardless of whether he or she works
22 on the holiday, accrue only an additional eight hours of personal
23 holiday credit per fiscal year for the holiday. The holiday credit
24 shall be accrued on the actual date of the holiday and shall be used
25 within the same fiscal year.

26 (4) When a holiday other than a personal holiday falls on
27 Sunday, employees shall be entitled to the following Monday as
28 a holiday with pay.

29 (5) Employees who are required to work on a holiday shall be
30 entitled to pay or compensating time off for this work in accordance
31 with their classification's assigned workweek group.

32 (6) Persons employed on less than a full-time basis shall receive
33 holidays in accordance with the Department of Human Resources
34 rules.

35 (e) Any employee, as defined in subdivision (c) of Section 3513,
36 may elect to use eight hours of vacation, annual leave, or
37 compensating time off consistent with departmental operational
38 needs and collective bargaining agreements for the fourth Friday
39 in September, known as "Native American Day."

(f) This section shall become effective with regard to the March 31 holiday only when the Department of Human Resources notifies the Legislature that the language contained in this section has been agreed to by all exclusive representatives, and the Department of Human Resources authorizes this holiday to be applied to employees designated as excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), and the necessary statutes are amended to reflect this change.

~~SEC. 110.~~

SEC. 105. Section 19867 of the Government Code is amended to read:

19867. (a) The Legislature finds and declares that the interests of the state would be served by the Department of Human Resources meeting and conferring with the exclusive representatives of the various bargaining units to discuss the establishment of long-term care benefits for state employees.

(b) If long-term care insurance plans are not available to state employees within one year following the date on which any long-term care plan is first offered for enrollment by the Board of Administration of the Public Employees' Retirement System, state employees may enroll in the long-term care insurance plans offered by the Board of Administration of the Public Employees' Retirement System.

(c) If subdivision (b) is in conflict with a memorandum of understanding entered into pursuant to Section 3517.5, the memorandum of understanding shall prevail and control without further legislative action, except that if the prevailing provisions of a memorandum of understanding require the expenditure of funds, these provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(d) The Department of Human Resources may enter into contracts with the Board of Administration of the Public Employees' Retirement System to allow active eligible state employees, and their spouses and parents, to enroll in any long-term care insurance plans offered by the board of administration.

~~SEC. 111.~~

SEC. 106. Section 19999.1 of the Government Code is amended to read:

19999.1. The Department of Human Resources, in conjunction with the Board of Administration of the Public Employees'

1 Retirement System, shall develop legislation which will implement
2 a two-tiered retirement system.

3 ~~SEC. 112.~~

4 *SEC. 107.* Section 19999.3 of the Government Code is amended
5 to read:

6 19999.3. (a) The Legislature finds and declares that this chapter
7 is intended to provide an alternate retirement program for new
8 state employees who are members of the Public Employees'
9 Retirement System pursuant to Section 20281.5 and who, during
10 the 24 months of employment following the date they qualify for
11 membership in the system pursuant to that section, do not make
12 contributions into the defined benefit retirement program.

13 (b) The Legislature hereby authorizes the development of a
14 retirement program under the Deferred Compensation Plan, the
15 tax-deferred savings plan, or any other acceptable defined
16 contribution plan.

17 (c) The state employees described in subdivision (a) who are
18 employed in positions that are subject to the federal system, as
19 defined in Section 20033, shall contribute to the retirement program
20 5 percent of compensation, as set forth in Part 3 (commencing with
21 Section 20000), in excess of five hundred thirteen dollars (\$513)
22 per month paid to that member for service rendered. The state
23 employer shall pick up the contribution, as authorized by Section
24 414(h) of the Internal Revenue Code, and shall deduct the
25 contribution from the employee's compensation. The contributions
26 required by this subdivision shall cease when the state employee
27 begins making contributions to the defined benefit retirement
28 program.

29 (d) State employees hired on or after July 1, 2006, who are
30 represented by State Bargaining Unit 2 and are employed in
31 positions that are subject to the federal system, as defined in
32 Section 20033, shall contribute to the retirement program 6 percent
33 of compensation, as set forth in Part 3 (commencing with Section
34 20000), in excess of five hundred thirteen dollars (\$513) per month
35 paid to that member for service rendered. The state employer shall
36 pick up the contribution, as authorized by Section 414(h) of the
37 Internal Revenue Code, and shall deduct the contribution from the
38 employee's compensation. The contributions required by this
39 subdivision shall cease when the state employee begins making
40 contributions to the defined benefit retirement program.

(e) Beginning with the first pay period following the effective date of this subdivision, all state employees who are subject to this section shall make contributions required by this section in the same amount as contributions made by employees in the same employment classifications and state bargaining units who are members subject to Part 3 (commencing with Section 20000) of Division 5 of Title 2. Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of Human Resources may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(f) (1) “State employees,” as used in this section, include employees, as defined in Section 19815.

(2) This section shall not apply to employees of the California State University, the University of California, or the legislative or judicial branch.

(g) If the retirement program authorized by this section is inconsistent with federal laws or rules or becomes unnecessary under state or federal law, this section shall become inoperative.

~~SEC. 113.~~

SEC. 108. Section 19999.21 of the Government Code is amended to read:

19999.21. The Department of Human Resources shall administer the retirement program established by this chapter. The department shall provide by rule for the regulation of the retirement program and the method by which the benefit payments would be made to eligible recipients. The department shall by rule establish the level of employee deferrals to the plan, cessation of, or transfer of membership to the Public Employees’ Retirement System upon qualification, continued participation in the plan, and other provisions necessary for the implementation of this retirement program. The department may assess each state agency a fee for the costs associated with administration of this program.

The regulations shall not be subject to the review and approval of the Office of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title

1 2. The regulations shall become effective immediately upon filing
2 with the Secretary of State.

3 ~~SEC. 114.~~

4 *SEC. 109.* Section 19999.31 of the Government Code is
5 amended to read:

6 19999.31. The Department of Human Resources shall
7 administer the retirement program established by this chapter. The
8 department shall provide the method by which benefit payments
9 shall be made to eligible recipients. The department shall establish
10 the program, the transfer of contributions to the Public Employees'
11 Retirement System upon qualification and election by the member,
12 continued participation in the program, and other provisions
13 necessary for the implementation of the retirement program. The
14 department may assess each state agency a fee for the costs
15 associated with administration of this program.

16 ~~SEC. 115.~~

17 *SEC. 110.* Section 20068 of the Government Code is amended
18 to read:

19 20068. (a) "State safety service" means service rendered as a
20 state safety member only while receiving compensation for that
21 service, except as provided in Article 4 (commencing with Section
22 20990) of Chapter 11. It also includes service rendered in an
23 employment in which persons have since become state safety
24 members and service rendered prior to April 1, 1973, and falling
25 within the definition of warden, forestry, and law enforcement
26 service under this chapter prior to April 1, 1973. "State safety
27 service" pursuant to this subdivision does not include service as
28 an investigator prior to April 1, 1973, within the Department of
29 Justice of persons who prior to April 1, 1973, were classed as
30 miscellaneous members.

31 (b) "State safety service" with respect to a member who becomes
32 a state safety member pursuant to Section 20405 shall also include
33 service prior to the date on which he or she becomes a state safety
34 member as an officer or employee of the Department of Corrections
35 and Rehabilitation.

36 (c) "State safety service" with respect to a member who becomes
37 a state safety member pursuant to Sections 20409 and 20410 shall
38 also include service in a class specified in these sections or service
39 pursuant to subdivision (a), prior to September 27, 1982.

(d) “State safety service,” with respect to a member who becomes a state safety member pursuant to Sections 20414 and 20415, shall also include service prior to September 22, 1982, as an officer or employee of the Department of Parks and Recreation or the Military Department.

(e) “State safety service” does not include service in classes specified in Section 20407 prior to January 1, 1989.

(f) “State safety service” does not include service in classes specified in Section 20408 prior to January 1, 1990.

(g) “State safety service,” with respect to a member who becomes a state safety member pursuant to subdivision (b) of Section 20405.1, shall also include service rendered in an employment in which persons have since become state safety members, as determined by the Department of Human Resources pursuant to that section.

~~SEC. 116.~~

SEC. 111. Section 20090 of the Government Code is amended to read:

20090. The Board of Administration of the Public Employees’ Retirement System is continued in existence. It consists of:

(a) One member of the State Personnel Board, selected by and serving at the pleasure of the State Personnel Board.

(b) The Director of Human Resources.

(c) The Controller.

(d) The Treasurer.

(e) An official of a life insurer and an elected official of a contracting agency, appointed by the Governor.

(f) One person representing the public, appointed jointly by the Speaker of the Assembly and the Senate Committee on Rules.

(g) Six members elected under the supervision of the board as follows:

(1) Two members elected by the members of this system from the membership thereof.

(2) A member elected by the active state members of this system from the state membership thereof.

(3) A member elected by and from the active local members of this system who are employees of a school district or a county superintendent of schools.

1 (4) A member elected by and from the active local members of
2 this system other than those who are employees of a school district
3 or a county superintendent of schools.

4 (5) A member elected by and from the retired members of this
5 system.

6 ~~SEC. 117.~~

7 *SEC. 112.* Section 20090.1 of the Government Code is amended
8 to read:

9 20090.1. (a) Notwithstanding any other provision of law to
10 the contrary, the member of the board who is an elected official
11 of a contracting agency appointed by the Governor, pursuant to
12 subdivision (e) of Section 20090, may designate a deputy, who is
13 employed under the official's authority, to act in his or her place
14 and stead on the board or any of its committees. The deputy, while
15 sitting on the board or any of its committees, may exercise the
16 same powers that the elected official could exercise if he or she
17 were personally present. The elected official shall be responsible
18 for the acts of the deputy acting under this designation.

19 (b) Notwithstanding any other provision of law to the contrary,
20 the Director of Human Resources may designate a deputy, who is
21 employed under the director's authority, to act in his or her place
22 and stead on the board or any of its committees. The deputy, while
23 sitting on the board or any of its committees, may exercise the
24 same powers that the director could exercise if he or she were
25 personally present. The director shall be responsible for the acts
26 of the deputy acting under this designation.

27 ~~SEC. 118.~~

28 *SEC. 113.* Section 20398 of the Government Code is amended
29 to read:

30 20398. "State peace officer/firefighter member" also includes:

31 (a) (1) State officers and employees designated as peace officers
32 as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and
33 830.5 of the Penal Code, or a firefighter whose principal duties
34 consist of active firefighting/fire suppression, who is either
35 excluded from the definition of state employee in subdivision (c)
36 of Section 3513 or is a nonelected officer or employee of the
37 executive branch of government who is not a member of the civil
38 service, if the majority of his or her duties consists of one of the
39 following:

1 (A) Responsibility for the direct supervision of state peace
2 officer/firefighter personnel specified in Sections 20391, 20392,
3 20393, and 20395.

4 (B) Conducting investigations or audits of investigatory practices
5 and other audits of, or in, the Department of Corrections and
6 Rehabilitation.

7 (C) Administration of programs of an agency, department, or
8 other organizational unit that is primarily responsible for active
9 law enforcement or active firefighting/fire suppression.

10 (2) For purposes of this subdivision, “administration” means
11 the actions of the employee designated as a peace officer/firefighter
12 member in a position that is in the direct chain of command over
13 an agency, department, or organizational unit in which the majority
14 of employees are state peace officer/firefighter members as
15 described in Section 20391, 20392, 20393, or 20395.

16 (b) “State peace officer/firefighter member” shall not include
17 persons whose primary responsibilities are limited to personnel
18 administration, budgeting, public affairs, data processing or
19 information technology, governmental relations, or legal support,
20 or administration or oversight of these responsibilities.

21 (c) “State peace officer/firefighter member” shall include
22 individuals hired prior to January 1, 2009, who do not meet the
23 criteria in subdivision (a) if those individuals have been
24 continuously employed in positions that were deemed to come
25 within the “state peace officer/firefighter member” classification
26 pursuant to this section prior to January 1, 2009.

27 (d) “State peace officer/firefighter member” shall include
28 individuals hired prior to April 1, 2011, or the first day of the first
29 pay period following the enactment of the act that added this
30 subdivision if that act is enacted after April 1, 2011, who do not
31 meet the criteria in subdivision (a) if those individuals have been
32 continuously employed in positions in the Office of the Inspector
33 General that were deemed to come within the “state peace
34 officer/firefighter member” classification pursuant to this section
35 prior to April 1, 2011, or prior to the first day of the first pay period
36 following the enactment of the act that added this subdivision if
37 that act is enacted after April 1, 2011.

38 (e) The Department of Human Resources shall annually
39 determine which classes meet the conditions described in this
40 section and are not classes specified in Sections 20391, 20392,

20393, and 20395, and report its findings to the Legislature and to this system, to be effective July 1 of each year. An agency or department shall not designate a classification as a “state peace officer/firefighter member” classification pursuant to this section without prior approval from the Department of Human Resources.

(f) Members who are reclassified pursuant to this section may file an irrevocable election to remain subject to their prior retirement formula and the corresponding rate of contributions. The Secretary of the Department of Corrections and Rehabilitation may, upon appointment to that office on or after January 1, 1999, file an irrevocable election to be subject to the industrial formula and the corresponding rate of contributions. The elections shall be filed within 90 days of notification by the board. Members who so elect shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for the service included in the federal system.

~~SEC. 119.~~

SEC. 114. Section 20405 of the Government Code is amended to read:

20405. (a) “State safety member” shall also include officers and employees of the Department of Corrections and Rehabilitation in the following classifications:

| Classification Code | Classification |
|---------------------|---|
| 0683 | Assistant Dairy Operator |
| 2156 | Assistant Food Manager (Correctional Facility) |
| 4302 | Assistant General Manager, Operations |
| 2080 | Assistant Seamer (Correctional Facility) |
| 5447 | Assistant Warden, Psychiatric Services, Correctional Facility |
| 6868 | Automobile Mechanic (Correctional Facility) |
| 6394 | Automotive Equipment Operator I (Correctional Facility) |
| 6392 | Automotive Equipment Operator II (Correctional Facility) |
| 6893 | Automotive Pool Manager I (Correctional Facility) |
| 2224 | Baker I (Correctional Facility) |
| 2221 | Baker II (Correctional Facility) |
| 2086 | Barber (Correctional Facility) |

| | | |
|----|----------------|---|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 2084 | Barbershop Manager (Correctional Facility) |
| 4 | 6216 | Building Maintenance Worker (Correctional |
| 5 | | Facility) |
| 6 | 2245 | Butcher–Meat Cutter II (Correctional Facility) |
| 7 | 6483 | Carpenter I (Correctional Facility) |
| 8 | 6474 | Carpenter II (Correctional Facility) |
| 9 | 6471 | Carpenter III (Correctional Facility) |
| 10 | 2015 | Chief Assistant General Manager, Prison Industries |
| 11 | 4110 | Chief, Day Labor Programs (Correctional Facility) |
| 12 | 9344 | Chief Dentist, Correctional Facility |
| 13 | 2578 | Chief Deputy, Clinical Services, Correctional |
| 14 | | Facility |
| 15 | 6699 | Chief Engineer I (Correctional Facility) |
| 16 | 7547 | Chief Medical Officer, Correctional Facility |
| 17 | 6754 | Chief of Plant Operation I (Correctional Facility) |
| 18 | 6751 | Chief of Plant Operation II (Correctional Facility) |
| 19 | 6748 | Chief of Plant Operation III (Correctional |
| 20 | | Facility) |
| 21 | 9267 | Chief Physician and Surgeon, Correctional Facility |
| 22 | 7612 | Chief Psychiatrist, Correctional Facility |
| 23 | 9859 | Chief Psychologist, Correctional Facility |
| 24 | 7146 | Chief, Quality Assurance, Prison Industries |
| 25 | 9279 | Clinical Dietician, Correctional Facility |
| 26 | 9293 | Clinical Laboratory Technologist, Correctional |
| 27 | | Facility |
| 28 | 4132 | Construction Supervisor (Correctional Facility) |
| 29 | 4107 | Construction Supervisor I (Correctional Facility) |
| 30 | 4108 | Construction Supervisor II (Correctional Facility) |
| 31 | 4109 | Construction Supervisor III (Correctional Facility) |
| 32 | 2187 | Cook I (Correctional Facility) |
| 33 | 2186 | Cook II (Correctional Facility) |
| 34 | 7208 | Correctional Business Manager I, Department of |
| 35 | | Corrections |
| 36 | 4744 | Correctional Business Manager II, Department of |
| 37 | | Corrections |
| 38 | 4910 | Correctional Health Services Administrator I, |
| 39 | | Correctional Facility |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 4912 | Correctional Health Services Administrator II, |
| 4 | | Correctional Facility |
| 5 | 6304 | Correctional Plant Manager I, Department of |
| 6 | | Corrections |
| 7 | 6305 | Correctional Plant Manager II, Department of |
| 8 | | Corrections |
| 9 | 6303 | Correctional Plant Supervisor, Department of |
| 10 | | Corrections |
| 11 | 9296 | Dental Assistant, Correctional Facility |
| 12 | 9298 | Dental Hygienist, Correctional Facility |
| 13 | 9299 | Dental Laboratory Technician, Correctional |
| 14 | | Facility |
| 15 | 9268 | Dentist, Correctional Facility |
| 16 | 7200 | Dry Cleaning Plant Supervisor |
| 17 | 6544 | Electrician I (Correctional Facility) |
| 18 | 6538 | Electrician II (Correctional Facility) |
| 19 | 6534 | Electrician III (Correctional Facility) |
| 20 | 6916 | Electronics Technician (Correctional Facility) |
| 21 | 6865 | Equipment Maintenance Supervisor (Correctional |
| 22 | | Facility) |
| 23 | 2153 | Food Administrator I (Correctional Facility) |
| 24 | 2147 | Food Administrator II (Correctional Facility) |
| 25 | 2150 | Food Manager (Correctional Facility) |
| 26 | 2196 | Food Service Worker I (Correctional Facility) |
| 27 | 2195 | Food Service Worker II (Correctional Facility) |
| 28 | 6955 | Fusion Welder (Correctional Facility) |
| 29 | 6628 | Glazier (Correctional Facility) |
| 30 | 0743 | Groundskeeper (Correctional Facility) |
| 31 | 6826 | Heavy Equipment Mechanic (Correctional |
| 32 | | Facility) |
| 33 | 6379 | Heavy Truck Driver (Correctional Facility) |
| 34 | 9307 | Hospital Aid, Correctional Facility |
| 35 | 7218 | Industrial Supervisor, Prison Industries (Bindery) |
| 36 | 0648 | Industrial Supervisor, Prison Industries (Crop |
| 37 | | Farm) |
| 38 | 0682 | Industrial Supervisor, Prison Industries (Dairy) |
| 39 | 7204 | Industrial Supervisor, Prison Industries (Dental |
| 40 | | Laboratory) |

| | | |
|----|----------------|---|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 7198 | Industrial Supervisor, Prison Industries (Fabric |
| 4 | | Products) |
| 5 | 7211 | Industrial Supervisor, Prison Industries (Knit |
| 6 | | Goods Finishing) |
| 7 | 7210 | Industrial Supervisor, Prison Industries |
| 8 | | (Knitting Mill) |
| 9 | 2109 | Industrial Supervisor, Prison Industries (Laundry) |
| 10 | 7215 | Industrial Supervisor, Prison Industries |
| 11 | | (Maintenance and Repair) |
| 12 | 7197 | Industrial Supervisor, Prison Industries (Mattress |
| 13 | | and Bedding) |
| 14 | 7191 | Industrial Supervisor, Prison Industries (Metal |
| 15 | | Fabrication) |
| 16 | 7216 | Industrial Supervisor, Prison Industries (Printing) |
| 17 | 7207 | Industrial Supervisor, Prison Industries (Shoe |
| 18 | | Manufacturing) |
| 19 | 7206 | Industrial Supervisor, Prison Industries (Shoes |
| 20 | | and Boots, Lasting to Packing) |
| 21 | 7321 | Industrial Supervisor, Prison Industries |
| 22 | | (Silkscreen) |
| 23 | 7192 | Industrial Supervisor, Prison Industries (Tool |
| 24 | | and Die) |
| 25 | 7179 | Industrial Supervisor, Prison Industries |
| 26 | | (Upholstery) |
| 27 | 7178 | Industrial Supervisor, Prison Industries (Wood |
| 28 | | Products) |
| 29 | 2006 | Janitor (Correctional Facility) |
| 30 | 2005 | Janitor Supervisor I (Correctional Facility) |
| 31 | 2004 | Janitor Supervisor II (Correctional Facility) |
| 32 | 2000 | Janitor Supervisor III (Correctional Facility) |
| 33 | 9265 | Laboratory Assistant, Correctional Facility |
| 34 | 2727 | Language, Speech and Hearing Specialist |
| 35 | 2114 | Laundry Supervisor I (Correctional Facility) |
| 36 | 2111 | Laundry Supervisor II (Correctional Facility) |
| 37 | 2117 | Laundry Worker (Correctional Facility) |
| 38 | 6867 | Lead Automobile Mechanic (Correctional Facility) |
| 39 | 0720 | Lead Groundskeeper (Correctional Facility) |
| 40 | 0718 | Lead Groundskeeper I (Correctional Facility) |

| | | |
|----|----------------|---|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 2952 | Librarian (Correctional Facility) |
| 4 | 6643 | Locksmith I (Correctional Facility) |
| 5 | 6801 | Machinist (Correctional Facility) |
| 6 | 6941 | Maintenance Mechanic (Correctional Facility) |
| 7 | 6617 | Mason (Correctional Facility) |
| 8 | 1508 | Materials and Stores Supervisor I (Correctional |
| 9 | | Facility) |
| 10 | 1505 | Materials and Stores Supervisor II (Correctional |
| 11 | | Facility) |
| 12 | 8217 | Medical Technical Assistant, Correctional |
| 13 | | Facility |
| 14 | 9273 | Nurse Anesthetist, Correctional |
| 15 | | Facility |
| 16 | 9353 | Nurse Instructor, Correctional Facility |
| 17 | 9278 | Nurse Practitioner, Correctional Facility |
| 18 | 9280 | Occupational Therapist, Correctional Facility |
| 19 | 7971 | Optometrist, Correctional Facility |
| 20 | 6528 | Painter I (Correctional Facility) |
| 21 | 6524 | Painter II (Correctional Facility) |
| 22 | 6521 | Painter III (Correctional Facility) |
| 23 | 7199 | Pest Control Technician (Correctional |
| 24 | | Facility) |
| 25 | 9281 | Physical Therapist I, Correctional Facility |
| 26 | 9342 | Physical Therapist II, Correctional Facility |
| 27 | 9269 | Physician and Surgeon, Correctional Facility |
| 28 | 6550 | Plumber I (Correctional Facility) |
| 29 | 6594 | Plumber II (Correctional Facility) |
| 30 | 6545 | Plumber III (Correctional Facility) |
| 31 | 7972 | Podiatrist (Correctional Facility) |
| 32 | 1575 | Prison Canteen Manager I |
| 33 | 1576 | Prison Canteen Manager II |
| 34 | 7158 | Prison Industries Administrator |
| 35 | 7157 | Prison Industries Manager (General) |
| 36 | 7164 | Prison Industries Manager (Metal Products) |
| 37 | 7165 | Prison Industries Manager (Textile Products) |
| 38 | 7163 | Prison Industries Manager (Wood Products) |
| 39 | 0679 | Prison Industries Superintendent I (Agriculture) |
| 40 | 0617 | Prison Industries Superintendent II (Agriculture) |

| | | |
|----|----------------|---|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 7217 | Prison Industries Superintendent II (Bindery) |
| 4 | 7109 | Prison Industries Superintendent I (Coffee |
| 5 | | Roasting and Grinding) |
| 6 | 7203 | Prison Industries Superintendent I (Dental |
| 7 | | Laboratory) |
| 8 | 7202 | Prison Industries Superintendent II (Dental |
| 9 | | Laboratory) |
| 10 | 7170 | Prison Industries Superintendent II (Detergent) |
| 11 | 7350 | Prison Industries Superintendent I (Egg |
| 12 | | Production) |
| 13 | 7194 | Prison Industries Superintendent I (Fabric |
| 14 | | Products) |
| 15 | 7195 | Prison Industries Superintendent II (Fabric |
| 16 | | Products) |
| 17 | 7351 | Prison Industries Superintendent I (Fiberglass |
| 18 | | Products) |
| 19 | 7352 | Prison Industries Superintendent I (Furniture |
| 20 | | Refurbishing) |
| 21 | 7209 | Prison Industries Superintendent II (Knitting Mill) |
| 22 | 2108 | Prison Industries Superintendent II (Laundry) |
| 23 | 7154 | Prison Industries Superintendent II (Maintenance |
| 24 | | and Repair) |
| 25 | 7196 | Prison Industries Superintendent II (Mattress and |
| 26 | | Bedding) |
| 27 | 7189 | Prison Industries Superintendent I (Metal |
| 28 | | Products) |
| 29 | 7190 | Prison Industries Superintendent II (Metal |
| 30 | | Products) |
| 31 | 7214 | Prison Industries Superintendent II (Printing) |
| 32 | 7205 | Prison Industries Superintendent II (Shoe |
| 33 | | Manufacturing) |
| 34 | 7320 | Prison Industries Superintendent I (Silkscreen) |
| 35 | 7319 | Prison Industries Superintendent II (Silkscreen) |
| 36 | 7175 | Prison Industries Superintendent I (Wood |
| 37 | | Products) |
| 38 | 7172 | Prison Industries Superintendent II (Wood |
| 39 | | Products) |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 4760 | Procurement and Services Officer I (Correctional |
| 4 | | Facility) |
| 5 | 4761 | Procurement and Services Officer II (Correctional |
| 6 | | Facility) |
| 7 | 7162 | Product Engineering Technician, Prison Industries |
| 8 | 7156 | Production Manager I, Prison Industries |
| 9 | 1793 | Property Controller I (Correctional Facility) |
| 10 | 1794 | Property Controller II (Correctional Facility) |
| 11 | 9282 | Psychiatric Social Worker, Correctional Facility |
| 12 | 9283 | Psychologist—Clinical, Correctional |
| 13 | | Facility |
| 14 | 9284 | Psychology Associate, Correctional Facility |
| 15 | 9354 | Psychology Internship Director, Correctional |
| 16 | | Facility |
| 17 | 9285 | Psychometrist, Correctional Facility |
| 18 | 9274 | Public Health Nurse I, Correctional Facility |
| 19 | 9345 | Public Health Nurse II, Correctional Facility |
| 20 | 7145 | Quality Assurance Manager, Prison Industries |
| 21 | 3080 | Quality Control Technician, Prison Industries |
| 22 | | (Cleaning Products) |
| 23 | 9315 | Radiologic Technologist, Correctional Facility |
| 24 | 9286 | Recreation Therapist, Correctional Facility |
| 25 | 6715 | Refrigeration Engineer (Correctional Facility) |
| 26 | 9275 | Registered Nurse, Correctional Facility |
| 27 | 2734 | Resource Specialist, Special Education |
| 28 | 9316 | Respiratory Care Practitioner, Correctional |
| 29 | | Facility |
| 30 | 9854 | School Psychologist |
| 31 | 2077 | Seamer (Correctional Facility) |
| 32 | 9348 | Senior Clinical Laboratory Technologist, |
| 33 | | Correctional Facility |
| 34 | 9266 | Senior Laboratory Assistant, Correctional Facility |
| 35 | 2945 | Senior Librarian (Correctional Facility) |
| 36 | 8215 | Senior Medical Technical Assistant |
| 37 | 9346 | Senior Occupational Therapist, Correctional |
| 38 | | Facility |
| 39 | 9270 | Senior Psychiatrist, Correctional Facility |
| 40 | | (Specialist) |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 9271 | Senior Psychiatrist, Correctional Facility |
| 4 | | (Supervisor) |
| 5 | 9289 | Senior Psychologist, Correctional Facility |
| 6 | 9287 | Senior Psychologist, Correctional Facility |
| 7 | | (Specialist) |
| 8 | 9288 | Senior Psychologist, Correctional Facility |
| 9 | | (Supervisor) |
| 10 | 9350 | Senior Radiologic Technologist, Correctional |
| 11 | | Facility (Specialist) |
| 12 | 9351 | Senior Radiologic Technologist, Correctional |
| 13 | | Facility (Supervisor) |
| 14 | 7562 | Sheet Metal Worker (Correctional Facility) |
| 15 | 6211 | Skilled Laborer (Correctional Facility) |
| 16 | 9911 | Social Worker, Youth Authority |
| 17 | 9272 | Staff Psychiatrist, Correctional Facility |
| 18 | 9290 | Staff Psychologist-Clinical, Correctional Facility |
| 19 | 6713 | Stationary Engineer (Correctional Facility) |
| 20 | 6718 | Stationary Engineer Apprentice (Four-Year |
| 21 | | Program) (Correctional Facility) |
| 22 | 6557 | Steamfitter Supervisor (Correctional Facility) |
| 23 | 3082 | Substitute Academic Teacher (Correctional |
| 24 | | Facility) |
| 25 | 9349 | Supervising Clinical Laboratory Technologist, |
| 26 | | Correctional Facility |
| 27 | 2183 | Supervising Cook I (Correctional Facility) |
| 28 | 2182 | Supervising Cook II (Correctional Facility) |
| 29 | 0716 | Supervising Groundskeeper II (Correctional |
| 30 | | Facility) |
| 31 | 2044 | Supervising Housekeeper I (Correctional Facility) |
| 32 | 2940 | Supervising Librarian (Correctional Facility) |
| 33 | 9276 | Supervising Psychiatric Nurse, Correctional |
| 34 | | Facility |
| 35 | 9291 | Supervising Psychiatric Social Worker I, |
| 36 | | Correctional Facility |
| 37 | 9292 | Supervising Psychiatric Social Worker II, |
| 38 | | Correctional Facility |
| 39 | 9317 | Supervising Registered Nurse I, Correctional |
| 40 | | Facility |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 9318 | Supervising Registered Nurse II, Correctional |
| 4 | | Facility |
| 5 | 9319 | Supervising Registered Nurse III, Correctional |
| 6 | | Facility |
| 7 | 9910 | Supervising Social Worker I, Youth Authority |
| 8 | 9908 | Supervising Social Worker II, Youth Authority |
| 9 | 2305 | Supervisor of Academic Instruction (Correctional |
| 10 | | Facility) |
| 11 | 6763 | Supervisor of Building Trades (Correctional |
| 12 | | Facility) |
| 13 | 2384 | Supervisor of Commercial Diver Training |
| 14 | 2303 | Supervisor of Correctional Education Programs |
| 15 | 2370 | Supervisor of Vocational Instruction |
| 16 | 9277 | Surgical Nurse I, Correctional Facility |
| 17 | 9329 | Surgical Nurse II, Correctional Facility |
| 18 | 3073 | Teacher (Adaptive Physical Education) |
| 19 | | (Correctional Facility) |
| 20 | 2286 | Teacher (Cerebral Palsied Children) |
| 21 | | (Correctional Facility) |
| 22 | 2287 | Teacher (Elementary-Multiple Subjects) |
| 23 | | (Correctional Facility) |
| 24 | 2288 | Teacher (Emotionally/Learning Handicapped) |
| 25 | | (Correctional Facility) |
| 26 | 3075 | Teacher (English Language Development) |
| 27 | | (Correctional Facility) |
| 28 | 2297 | Teacher (Ethnic Studies) (Correctional Facility) |
| 29 | 2289 | Teacher (Family Life Education) (Correctional |
| 30 | | Facility) |
| 31 | 2373 | Teacher (Hearing Impaired) (Correctional |
| 32 | | Facility) |
| 33 | 2284 | Teacher (High School-Arts and Crafts) |
| 34 | | (Correctional Facility) |
| 35 | 2285 | Teacher (High School-Business Education) |
| 36 | | (Correctional Facility) |
| 37 | 3074 | Teacher (High School-English/Language Arts) |
| 38 | | (Correctional Facility) |
| 39 | 3076 | Teacher (High School-Foreign Language) |
| 40 | | (Correctional Facility) |

| | | |
|----|----------------|---|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 2290 | Teacher (High School-General Education) |
| 4 | | (Correctional Facility) |
| 5 | 2291 | Teacher (High School-Home Economics) |
| 6 | | (Correctional Facility) |
| 7 | 3077 | Teacher (High School-Mathematics) (Correctional |
| 8 | | Facility) |
| 9 | 2294 | Teacher (High School-Music) (Correctional |
| 10 | | Facility) |
| 11 | 2295 | Teacher (High School-Physical Education) |
| 12 | | (Correctional Facility) |
| 13 | 3078 | Teacher (High School-Science) (Correctional |
| 14 | | Facility) |
| 15 | 3079 | Teacher (High School-Social Science) |
| 16 | | (Correctional Facility) |
| 17 | 2298 | Teacher (Librarian) (Correctional Facility) |
| 18 | 2292 | Teacher (Mentally Retarded Children) |
| 19 | | (Correctional Facility) |
| 20 | 2371 | Teacher (Speech Development and Correction) |
| 21 | | (Correctional Facility) |
| 22 | 6400 | Teaching Assistant (Correctional Facility) |
| 23 | 7201 | Tobacco Factory Superintendent |
| 24 | 7560 | Tractor Operator-Laborer (Correctional Facility) |
| 25 | 6382 | Truck Driver (Correctional Facility) |
| 26 | 6772 | Utility Shops Supervisor (Correctional Facility) |
| 27 | 2387 | Vocational Instructor (Airframe Mechanics) |
| 28 | | (Correctional Facility) |
| 29 | 2853 | Vocational Instructor (Animal Husbandry) |
| 30 | | (Correctional Facility) |
| 31 | 2396 | Vocational Instructor (Auto Body and Fender |
| 32 | | Repair) (Correctional Facility) |
| 33 | 2398 | Vocational Instructor (Auto Mechanics) |
| 34 | | (Correctional Facility) |
| 35 | 2399 | Vocational Instructor (Baking) (Correctional |
| 36 | | Facility) |
| 37 | 2400 | Vocational Instructor (Bookbinding) (Correctional |
| 38 | | Facility) |
| 39 | 2854 | Vocational Instructor (Building Maintenance) |
| 40 | | (Correctional Facility) |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 2417 | Vocational Instructor (Carpentry) |
| 4 | | (Correctional Facility) |
| 5 | 2419 | Vocational Instructor (Commercial Diver |
| 6 | | Training) (Correctional Facility) |
| 7 | 2855 | Vocational Instructor (Computer and Related |
| 8 | | Technologies) (Correctional Facility) |
| 9 | 2420 | Vocational Instructor (Cosmetology) (Correctional |
| 10 | | Facility) |
| 11 | 2422 | Vocational Instructor (Culinary Arts) |
| 12 | | (Correctional Facility) |
| 13 | 2869 | Vocational Instructor (Dental Technology) |
| 14 | | (Correctional Facility) |
| 15 | 2856 | Vocational Instructor (Diesel Mechanics) |
| 16 | | (Correctional Facility) |
| 17 | 2423 | Vocational Instructor (Dog Grooming and |
| 18 | | Handling) (Correctional Facility) |
| 19 | 2425 | Vocational Instructor (Drycleaning Works) |
| 20 | | (Correctional Facility) |
| 21 | 2857 | Vocational Instructor (Drywall Installer/Taper) |
| 22 | | (Correctional Facility) |
| 23 | 2426 | Vocational Instructor (Electrical Work) |
| 24 | | (Correctional Facility) |
| 25 | 2428 | Vocational Instructor (Electronics) (Correctional |
| 26 | | Facility) |
| 27 | 2688 | Vocational Instructor (Eyewear Manufacturing) |
| 28 | | (Correctional Facility) |
| 29 | 2429 | Vocational Instructor (Fire Science) (Correctional |
| 30 | | Facility) |
| 31 | 2858 | Vocational Instructor (Floor Cover Layer) |
| 32 | | (Correctional Facility) |
| 33 | 2431 | Vocational Instructor (Furniture Refinishing and |
| 34 | | Repair) (Correctional Facility) |
| 35 | 2432 | Vocational Instructor (Garment Making) |
| 36 | | (Correctional Facility) |
| 37 | 2433 | Vocational Instructor (Heavy Equipment Repair) |
| 38 | | (Correctional Facility) |
| 39 | 2597 | Vocational Instructor (Household Appliance |
| 40 | | Repair) (Correctional Facility) |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 2598 | Vocational Instructor (Industrial Arts) |
| 4 | | (Correctional Facility) |
| 5 | 2599 | Vocational Instructor (Instrument Repair) |
| 6 | | (Correctional Facility) |
| 7 | 2600 | Vocational Instructor (Janitorial Service) |
| 8 | | (Correctional Facility) |
| 9 | 2601 | Vocational Instructor (Landscape Gardening) |
| 10 | | (Correctional Facility) |
| 11 | 2611 | Vocational Instructor (Laundry Work) |
| 12 | | (Correctional Facility) |
| 13 | 2614 | Vocational Instructor (Machine Shop |
| 14 | | Practice) (Correctional Facility) |
| 15 | 2615 | Vocational Instructor (Masonry) (Correctional |
| 16 | | Facility) |
| 17 | 2619 | Vocational Instructor (Meat Cutting) |
| 18 | | (Correctional Facility) |
| 19 | 2627 | Vocational Instructor (Mechanical Drawing) |
| 20 | | (Correctional Facility) |
| 21 | 2628 | Vocational Instructor (Merchandising) |
| 22 | | (Correctional Facility) |
| 23 | 2630 | Vocational Instructor (Mill and Cabinet Work) |
| 24 | | (Correctional Facility) |
| 25 | 2674 | Vocational Instructor (Office Machine Repair) |
| 26 | | (Correctional Facility) |
| 27 | 2849 | Vocational Instructor (Office Services and Related |
| 28 | | Technologies) (Correctional Facility) |
| 29 | 2640 | Vocational Instructor (Offset Printing) |
| 30 | | (Correctional Facility) |
| 31 | 2644 | Vocational Instructor (Painting) (Correctional |
| 32 | | Facility) |
| 33 | 2645 | Vocational Instructor (Plastering) (Correctional |
| 34 | | Facility) |
| 35 | 2661 | Vocational Instructor (Plumbing) (Correctional |
| 36 | | Facility) |
| 37 | 2665 | Vocational Instructor (Powerplant Mechanics) |
| 38 | | (Correctional Facility) |
| 39 | 2666 | Vocational Instructor (Printing) (Correctional |
| 40 | | Facility) |

| | | |
|----|----------------|--|
| 1 | Classification | |
| 2 | Code | Classification |
| 3 | 2667 | Vocational Instructor (Radiologic Technology) |
| 4 | | (Correctional Facility) |
| 5 | 2668 | Vocational Instructor (Refrigeration and |
| 6 | | Air-conditioning Repair) (Correctional Facility) |
| 7 | 2850 | Vocational Instructor (Roofer) (Correctional |
| 8 | | Facility) |
| 9 | 2669 | Vocational Instructor (Sewing Machine Repair) |
| 10 | | (Correctional Facility) |
| 11 | 2670 | Vocational Instructor (Sheet Metal Work) |
| 12 | | (Correctional Facility) |
| 13 | 2671 | Vocational Instructor (Shoemaking) (Correctional |
| 14 | | Facility) |
| 15 | 2672 | Vocational Instructor (Silk Screening Process) |
| 16 | | (Correctional Facility) |
| 17 | 2851 | Vocational Instructor (Small Engine Repair) |
| 18 | | (Correctional Facility) |
| 19 | 2673 | Vocational Instructor (Storekeeping and |
| 20 | | Warehousing) (Correctional Facility) |
| 21 | 5415 | Vocational Instructor (Telemarketing/Customer |
| 22 | | Service) (Correctional Facility) |
| 23 | 2675 | Vocational Instructor (Upholstering) (Correctional |
| 24 | | Facility) |
| 25 | 2676 | Vocational Instructor (Vocational Nursing) |
| 26 | | (Correctional Facility) |
| 27 | 2677 | Vocational Instructor (Welding) |
| 28 | | (Correctional Facility) |
| 29 | 1504 | Warehouse Manager I (Correctional Facility) |
| 30 | 1502 | Warehouse Manager II (Correctional Facility) |
| 31 | 6221 | Warehouse Worker (Correctional Facility) |
| 32 | 6724 | Water and Sewage Plant Supervisor |
| 33 | | (Correctional Facility) |
| 34 | 2311 | Youth Authority Teacher |
| 35 | | |

36 (b) In addition, “state safety member” shall also include officers
 37 and employees of the Department of Corrections and Rehabilitation
 38 in any classification of Vocational Instructor, Industrial Supervisor,
 39 Industrial Superintendent, Assistant Industrial Superintendent, or
 40 Production Manager II (Prison Industries) that is established on

1 or after January 1, 1984, if the Department of Human Resources
2 and the State Personnel Board approve the inclusion of the
3 classification.

4 (c) “State safety member” shall also include officers and
5 employees in parenthetical specialty classes when the core class
6 has already been expressly included in the state safety membership
7 category if the Department of Human Resources and the State
8 Personnel Board approve the inclusion of the classifications. The
9 inclusion shall not be effective until notice of the inclusion has
10 been received by the board.

11 (d) Any of these officers or employees in employment on the
12 operative date of an amendment to this section and who becomes
13 a state safety member as a result of that amendment, may elect by
14 a writing filed with the board prior to 90 days after notification by
15 the board, to be restored to his or her previous status as a state
16 industrial member. Upon the filing of the election the member
17 shall cease to be a state safety member, and his or her rights and
18 obligations shall be restored prospectively and retroactively to the
19 operative date of that amendment.

20 ~~SEC. 120.~~

21 *SEC. 115.* Section 20405.1 of the Government Code is amended
22 to read:

23 20405.1. Notwithstanding Section 20405, this section shall
24 apply to state employees in state bargaining units that have agreed
25 to these provisions in a memorandum of understanding between
26 the state employer and the recognized employee organization, as
27 defined in Section 3513, state employees who are excluded from
28 the definition of “state employee” by subdivision (c) of Section
29 3513, and officers or employees of the executive branch of state
30 government who are not members of the civil service.

31 (a) On and after the effective date of this section, state safety
32 members shall also include officers and employees whose
33 classifications or positions are found to meet the state safety criteria
34 prescribed in Section 19816.20, provided the Department of Human
35 Resources agrees to their inclusion, and officers and employees
36 whose classifications or positions have been designated as subject
37 to state safety membership pursuant to Section 19816.21. For
38 employees covered by a collective bargaining agreement, the
39 effective date of safety membership shall be the date on which the
40 department and the employees’ exclusive representative reach

1 agreement by memorandum of understanding pursuant to Section
2 3517.5 or any later date specified in the memorandum of
3 understanding. For employees not covered by a collective
4 bargaining agreement, the Department of Human Resources shall
5 determine the effective date of safety membership.

6 (b) The department shall notify the board as new classes or
7 positions become eligible for state safety membership, as specified
8 in subdivision (a), and specify how service prior to the effective
9 date shall be credited.

10 (c) The department shall prepare and submit to the Legislature
11 an annual report that contains the classes or positions that are
12 eligible for state safety membership under this section.

13 (d) Any person designated as a state safety member pursuant
14 to this section may elect, within 90 days of notification by the
15 board, to remain subject to the miscellaneous or industrial service
16 retirement benefit and contribution rate by filing an irrevocable
17 election with the board. A member who so elects shall be subject
18 to the reduced benefit factors specified in Section 21076, 21353,
19 or 21354.1, as applicable, only for service also included in the
20 federal system.

21 ~~SEC. 121.~~

22 *SEC. 116.* Section 20405.2 of the Government Code is amended
23 to read:

24 20405.2. A member who made the election to remain under
25 the miscellaneous or industrial retirement benefit, as provided in
26 Section 20405.1, may elect to be subject to the state safety formula
27 within 90 days of notification by the board. The election, which
28 shall be provided by the board on and after January 1, 2000, shall
29 be filed with the board. Past service that would have been credited
30 as a safety member, but for the member's election to remain under
31 the miscellaneous or industrial formula, shall be credited under
32 the safety formula. This section shall apply to state employees in
33 state bargaining units that have agreed to this provision in a
34 memorandum of understanding, or authorized by the Director of
35 Human Resources for classifications of state employees that are
36 excluded from the definition of state employee by paragraph (c)
37 of Section 3513.

38 ~~SEC. 122.~~

39 *SEC. 117.* Section 20405.3 of the Government Code is amended
40 to read:

20405.3. (a) A member who is an employee of the Department of Corrections and Rehabilitation, who made the election to remain under the state industrial membership classification, as provided in subdivision (d) of Section 20405, may elect to be subject to state safety membership within 90 days of notification by the board, if the employee is in any of the following classifications:

- (1) Dentist, Correctional Facility.
- (2) Physician and Surgeon, Correctional Facility.
- (3) Staff Psychiatrist, Correctional Facility.
- (4) Podiatrist, Correctional Facility.

(b) The election, which shall be provided by the board on and after January 1, 2002, shall be filed with the board. Past service that would have been credited as a state safety member, but for the member's election to remain under the state industrial formula, shall be credited as safety service.

(c) This section shall apply to state employees in State Bargaining Unit 16 and, if authorized by the Director of Human Resources, state employees that are excluded from the definition of "state employee" by paragraph (c) of Section 3513.

~~SEC. 123.~~

SEC. 118. Section 20407 of the Government Code is amended to read:

20407. "State safety member" also includes officers and employees with the State Department of Mental Health and the Department of Corrections and Rehabilitation in the following classifications:

| Classification | |
|----------------|---|
| Code | Classification Title |
| 8254 | Prelicensed Psychiatric Technician (forensic facility) |
| 8253 | Psychiatric Technician (forensic facility) |
| 8252 | Senior Psychiatric Technician (forensic facility) |
| 8212 | Nurse Practitioner (forensic facility) |
| 8160 | Health Services Specialist (forensic facility) |
| 7601 | Program Director-Medical |

(forensic facility)

“State safety member” also includes an officer or employee of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, the State Department of Mental Health Psychiatric Program of California Medical Facility at Vacaville, or any other state hospital that is deemed a forensic facility, who either is excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the direct supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Human Resources shall determine which classes meet the above conditions and report its findings to the Public Employees’ Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

~~SEC. 124.~~

SEC. 119. Section 20408 of the Government Code is amended to read:

20408. “State safety member” also includes officers and employees with the State Department of Mental Health or the Department of Forestry and Fire Protection in the following classifications:

| Classification | |
|----------------|--|
| Code | Classification Title |
| 2860 | Audio Visual Assistant (Correctional Facility) |

| | | |
|---|----------------|---------------------------------------|
| 1 | Classification | |
| 2 | Code | Classification Title |
| 3 | 2861 | Audio Visual Specialist (Correctional |
| 4 | | Facility) |
| 5 | 8094 | Registered Nurse (Forensic Facility) |
| 6 | | |

7 “State safety member” also includes an officer or employee of
8 the State Department of Mental Health at Patton State Hospital or
9 Atascadero State Hospital, who either is excluded from the
10 definition of state employee in subdivision (c) of Section 3513, or
11 is a nonelected officer or employee of the executive branch of
12 government who is not a member of the civil service. An officer
13 or employee may be a state safety member under this paragraph
14 only if the person has responsibility for the supervision of state
15 safety personnel specified in the classifications listed in this section
16 and if the State Personnel Board determines that these officers and
17 employees meet the state safety membership criteria established
18 pursuant to Section 18717. The Department of Human Resources
19 shall determine which classes meet the above conditions and report
20 its findings to this system, whereupon the change in membership
21 categories shall take effect.

22 ~~SEC. 125.~~

23 *SEC. 120.* Section 20632 of the Government Code is amended
24 to read:

25 20632. For state employees in classifications designated by
26 the Director of Human Resources who are also excluded from, or
27 otherwise not subject to, collective bargaining, and for employees
28 in bargaining units for which a memorandum of understanding
29 has been agreed to by the state employer and the recognized
30 employee organization to become subject to this section,
31 compensation for uniforms shall not constitute “compensation”
32 for the purposes of the computation of retirement contributions by
33 employees and the state or for the purposes of the calculation of
34 retirement benefits.

35 ~~SEC. 126.~~

36 *SEC. 121.* Section 20636 of the Government Code is amended
37 to read:

38 20636. (a) “Compensation earnable” by a member means the
39 payrate and special compensation of the member, as defined by
40 subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) “Payrate” means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. “Payrate,” for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) “Payrate” shall include an amount deducted from a member’s salary for any of the following:

(A) Participation in a deferred compensation plan.

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

(C) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(D) Participation in a flexible benefits program.

(3) The computation for a leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(4) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

(c) (1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the

1 employer shall identify the pay period in which the special
2 compensation was earned.

3 (4) Special compensation may include the full monetary value
4 of normal contributions paid to the board by the employer, on
5 behalf of the member and pursuant to Section 20691, if the
6 employer's labor policy or agreement specifically provides for the
7 inclusion of the normal contribution payment in compensation
8 earnable.

9 (5) The monetary value of a service or noncash advantage
10 furnished by the employer to the member, except as expressly and
11 specifically provided in this part, is not special compensation unless
12 regulations promulgated by the board specifically determine that
13 value to be "special compensation."

14 (6) The board shall promulgate regulations that delineate more
15 specifically and exclusively what constitutes "special
16 compensation" as used in this section. A uniform allowance, the
17 monetary value of employer-provided uniforms, holiday pay, and
18 premium pay for hours worked within the normally scheduled or
19 regular working hours that are in excess of the statutory maximum
20 workweek or work period applicable to the employee under Section
21 201 et seq. of Title 29 of the United States Code shall be included
22 as special compensation and appropriately defined in those
23 regulations.

24 (7) Special compensation does not include any of the following:

25 (A) Final settlement pay.

26 (B) Payments made for additional services rendered outside of
27 normal working hours, whether paid in lump sum or otherwise.

28 (C) Other payments the board has not affirmatively determined
29 to be special compensation.

30 (d) Notwithstanding any other provision of law, payrate and
31 special compensation schedules, ordinances, or similar documents
32 shall be public records available for public scrutiny.

33 (e) (1) As used in this part, "group or class of employment"
34 means a number of employees considered together because they
35 share similarities in job duties, work location, collective bargaining
36 unit, or other logical work-related grouping. One employee may
37 not be considered a group or class.

38 (2) Increases in compensation earnable granted to an employee
39 who is not in a group or class shall be limited during the final
40 compensation period applicable to the employees, as well as the

1 two years immediately preceding the final compensation period,
2 to the average increase in compensation earnable during the same
3 period reported by the employer for all employees who are in the
4 same membership classification, except as may otherwise be
5 determined pursuant to regulations adopted by the board that
6 establish reasonable standards for granting exceptions.

7 (f) As used in this part, “final settlement pay” means pay or
8 cash conversions of employee benefits that are in excess of
9 compensation earnable, that are granted or awarded to a member
10 in connection with, or in anticipation of, a separation from
11 employment. The board shall promulgate regulations that delineate
12 more specifically what constitutes final settlement pay.

13 (g) (1) Notwithstanding subdivision (a), “compensation
14 earnable” for state members means the average monthly
15 compensation, as determined by the board, upon the basis of the
16 average time put in by members in the same group or class of
17 employment and at the same rate of pay, and is composed of the
18 payrate and special compensation of the member. The computation
19 for an absence of a member shall be based on the compensation
20 earnable by him or her at the beginning of the absence and for time
21 prior to entering state service shall be based on the compensation
22 earnable by him or her in the position first held by him or her in
23 that state service.

24 (2) Notwithstanding subdivision (b), “payrate” for state members
25 means the average monthly remuneration paid in cash out of funds
26 paid by the employer to similarly situated members of the same
27 group or class of employment, in payment for the member’s
28 services or for time during which the member is excused from
29 work because of holidays, sick leave, vacation, compensating time
30 off, or leave of absence. “Payrate” for state members shall include:

31 (A) An amount deducted from a member’s salary for any of the
32 following:

33 (i) Participation in a deferred compensation plan established
34 pursuant to Chapter 4 (commencing with Section 19993) of Part
35 2.6.

36 (ii) Payment for participation in a retirement plan that meets
37 the requirements of Section 401(k) of Title 26 of the United States
38 Code.

1 (iii) Payment into a money purchase pension plan and trust that
2 meets the requirements of Section 401(a) of Title 26 of the United
3 States Code.

4 (iv) Participation in a flexible benefits program.

5 (B) A payment in cash by the member's employer to one other
6 than an employee for the purpose of purchasing an annuity contract
7 for a member under an annuity plan that meets the requirements
8 of Section 403(b) of Title 26 of the United States Code.

9 (C) Employer "pick up" of member contributions that meets
10 the requirements of Section 414(h)(2) of Title 26 of the United
11 States Code.

12 (D) Disability or workers' compensation payments to safety
13 members in accordance with Section 4800 of the Labor Code.

14 (E) Temporary industrial disability payments pursuant to Article
15 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

16 (F) Other payments the board may determine to be within
17 "payrate."

18 (3) Notwithstanding subdivision (c), "special compensation"
19 for state members shall mean all of the following:

20 (A) The monetary value, as determined by the board, of living
21 quarters, board, lodging, fuel, laundry, and other advantages of
22 any nature furnished to a member by his or her employer in
23 payment for the member's services.

24 (B) Compensation for performing normally required duties,
25 such as holiday pay, bonuses (for duties performed on regular work
26 shift), educational incentive pay, maintenance and noncash
27 payments, out-of-class pay, marksmanship pay, hazard pay,
28 motorcycle pay, paramedic pay, emergency medical technician
29 pay, Peace Officer Standards and Training (POST) certificate pay,
30 and split shift differential.

31 (C) Compensation for uniforms, except as provided in Section
32 20632.

33 (D) Other payments the board may determine to be within
34 "special compensation."

35 (4) "Payrate" and "special compensation" for state members do
36 not include any of the following:

37 (A) The provision by the state employer of a medical or hospital
38 service or care plan or insurance plan for its employees (other than
39 the purchase of annuity contracts as described below in this
40 subdivision), a contribution by the employer to meet the premium

1 or charge for that plan, or a payment into a private fund to provide
2 health and welfare benefits for employees.

3 (B) A payment by the state employer of the employee portion
4 of taxes imposed by the Federal Insurance Contribution Act.

5 (C) Amounts not available for payment of salaries and that are
6 applied by the employer for the purchase of annuity contracts
7 including those that meet the requirements of Section 403(b) of
8 Title 26 of the United States Code.

9 (D) Benefits paid pursuant to Article 5 (commencing with
10 Section 19878) of Chapter 2.5 of Part 2.6.

11 (E) Employer payments that are to be credited as employee
12 contributions for benefits provided by this system, or employer
13 payments that are to be credited to employee accounts in deferred
14 compensation plans. The amounts deducted from a member's
15 wages for participation in a deferred compensation plan may not
16 be considered to be "employer payments."

17 (F) Payments for unused vacation, annual leave, personal leave,
18 sick leave, or compensating time off, whether paid in lump sum
19 or otherwise.

20 (G) Final settlement pay.

21 (H) Payments for overtime, including pay in lieu of vacation or
22 holiday.

23 (I) Compensation for additional services outside regular duties,
24 such as standby pay, callback pay, court duty, allowance for
25 automobiles, and bonuses for duties performed after the member's
26 regular work shift.

27 (J) Amounts not available for payment of salaries and that are
28 applied by the employer for any of the following:

29 (i) The purchase of a retirement plan that meets the requirements
30 of Section 401(k) of Title 26 of the United States Code.

31 (ii) Payment into a money purchase pension plan and trust that
32 meets the requirements of Section 401(a) of Title 26 of the United
33 States Code.

34 (K) Payments made by the employer to or on behalf of its
35 employees who have elected to be covered by a flexible benefits
36 program, where those payments reflect amounts that exceed the
37 employee's salary.

38 (L) Other payments the board may determine are not "payrate"
39 or "special compensation."

(5) If the provisions of this subdivision, including the board's determinations pursuant to subparagraph (F) of paragraph (2) and subparagraph (D) of paragraph (3), are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 3560, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, those provisions may not become effective unless approved by the Legislature in the annual Budget Act. No memorandum of understanding reached pursuant to Section 3517.5 or 3560 may exclude from the definition of either "payrate" or "special compensation" a member's base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence. If items of compensation earnable are included by memorandum of understanding as "payrate" or "special compensation" for retirement purposes for represented and higher education employees pursuant to this paragraph, the Department of Human Resources or the Trustees of the California State University shall obtain approval from the board for that inclusion.

(6) (A) Subparagraph (B) of paragraph (3) prescribes that compensation earnable includes compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, and split shift differential; and includes compensation for uniforms, except as provided in Section 20632; and subparagraph (I) of paragraph (4) excludes from compensation earnable compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, and bonuses for duties performed after regular work shift.

(B) Notwithstanding subparagraph (A), the Department of Human Resources shall determine which payments and allowances that are paid by the state employer shall be considered compensation for retirement purposes for an employee who either is excluded from the definition of state employee in Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

1 (C) Notwithstanding subparagraph (A), the Trustees of the
2 California State University shall determine which payments and
3 allowances that are paid by the trustees shall be considered
4 compensation for retirement purposes for a managerial employee,
5 as defined in Section 3562, or supervisory employee as defined in
6 Section 3580.3.

7 ~~SEC. 127.~~

8 *SEC. 122.* Section 20672.5 of the Government Code is amended
9 to read:

10 20672.5. Whenever a member's contribution rate is temporarily
11 reduced by statute, a memorandum of understanding, or the
12 Director of Human Resources, those reductions shall be limited
13 to the payment of member contributions during the reduction period
14 and do not apply to the purchase of service credit or the redeposit
15 of member contributions. The purchase of service credit and the
16 redeposit of member contributions shall be subject to the normal
17 rate of contribution for the member in effect immediately prior to
18 the temporary rate reduction.

19 ~~SEC. 128.~~

20 *SEC. 123.* Section 20677.4 of the Government Code is amended
21 to read:

22 20677.4. (a) (1) The normal rate of contribution for a state
23 miscellaneous or state industrial member whose service is not
24 included in the federal system shall be 6 percent of the
25 compensation in excess of three hundred seventeen dollars (\$317)
26 per month paid to that member for service rendered on or after
27 July 1, 1976.

28 (2) The normal rate of contribution for a state miscellaneous or
29 state industrial member, who has elected to be subject to Section
30 21353.5 and whose service is not included in the federal system,
31 shall be 6 percent of the member's compensation.

32 (3) The normal rate of contribution as established under this
33 subdivision for a member whose service is included in the federal
34 system, and whose service retirement allowance is reduced under
35 Section 21354.1, because of that inclusion, shall be reduced by
36 one-third as applied to compensation not exceeding four hundred
37 dollars (\$400) per month for service after the date of execution of
38 the agreement including service in the federal system and prior to
39 termination of the agreement with respect to the coverage group
40 to which he or she belongs.

1 (b) The normal rate of contribution for a state miscellaneous or
2 state industrial member whose service has been included in the
3 federal system shall be 5 percent of compensation in excess of five
4 hundred thirteen dollars (\$513) per month paid that member for
5 service rendered on or after July 1, 1976.

6 (c) The normal rate of contribution for a state miscellaneous or
7 state industrial member who is subject to Section 21076 or 21077
8 shall be 0 percent.

9 (d) A member who elected to become subject to Section 21353
10 solely for service rendered on or after the effective date of the
11 election, as authorized by subdivision (c) of Section 21070 during
12 the period between November 1, 1988, and October 31, 1989, is
13 not required to make the contributions specified in Section 21073.

14 (e) A member who elects to become subject to Section 21354.1,
15 as applicable, shall contribute at the rate specified in paragraph
16 (1) of subdivision (a) or paragraph (1) of subdivision (b), as
17 determined by the member's status with the federal system, and
18 the rate shall be applied from the first of the month following the
19 date of the election. A member who makes the election shall also
20 contribute for service prior to the date the contribution rate was
21 applied, in the manner specified in Section 21073 or 21073.1, as
22 applicable.

23 (f) If the provisions of this section are in conflict with the
24 provisions of a memorandum of understanding reached pursuant
25 to Section 3517.5, the memorandum of understanding shall be
26 controlling without further legislative action, except that if the
27 provisions of a memorandum of understanding require the
28 expenditure of funds, the provisions shall not become effective
29 unless and until approved by the Legislature in the annual Budget
30 Act.

31 (g) The Director of Human Resources may establish the normal
32 rate of contribution for a state employee who is excepted from the
33 definition of "state employee" in subdivision (c) of Section 3513,
34 and an officer or employee of the executive branch of state
35 government who is not a member of the civil service. The normal
36 rate of contribution shall be the same for all members identified
37 in this subdivision. The contribution rate shall be effective the
38 beginning of the pay period indicated by the Director of Human
39 Resources but shall be no earlier than the beginning of the pay
40 period following the date the board receives notification.

1 ~~SEC. 129.~~

2 *SEC. 124.* Section 20683 of the Government Code is amended
3 to read:

4 20683. (a) For each state member subject to Section 21369 or
5 21369.1, the normal rate of contribution shall be 6 percent of
6 compensation in excess of three hundred seventeen dollars (\$317)
7 per month paid to a member whose service is not included in the
8 federal system or in excess of five hundred thirteen dollars (\$513)
9 for one whose service is included in the federal system. If the
10 provisions of this section are in conflict with the provisions of a
11 memorandum of understanding reached pursuant to Section 3517.5,
12 the memorandum of understanding shall be controlling without
13 further legislative action, except that if those provisions of the
14 memorandum of understanding require the expenditure of funds,
15 those provisions shall not become effective unless approved by
16 the Legislature in the annual Budget Act.

17 (b) The Director of Human Resources may establish the normal
18 rate of contribution for a state employee who is excepted from the
19 definition of “state employee” in subdivision (c) of Section 3513,
20 and an officer or employee of the executive branch of state
21 government who is not a member of the civil service. The normal
22 rate of contribution shall be the same for all members identified
23 in this subdivision. The contribution rate shall be effective the
24 beginning of the pay period indicated by the Director of Human
25 Resources but shall be no earlier than the beginning of the pay
26 period following the date the board receives notification.

27 (c) For each local safety member subject to Section 21369, the
28 normal rate of contribution shall be 7 percent of compensation.

29 (d) The normal rate of contribution as established under this
30 section for a local member whose service is included in the federal
31 system and whose retirement allowance is reduced because of that
32 inclusion shall be reduced by one-third as applied to compensation
33 not exceeding four hundred dollars (\$400) per month for service
34 rendered after the date of execution of the modification of the
35 federal-state agreement including those services in the federal
36 system and prior to termination of his or her coverage under the
37 federal system.

38 (e) The operative date of this section with respect to a local
39 safety member shall be the date upon which he or she becomes
40 subject to Section 21369.

1 ~~SEC. 130.~~

2 *SEC. 125.* Section 20683.1 of the Government Code is amended
3 to read:

4 20683.1. (a) For each state safety member subject to Section
5 21369 or 21369.1 who is represented by State Bargaining Unit 2,
6 the normal rate of contribution shall be 10 percent of compensation
7 in excess of three hundred seventeen dollars (\$317) per month
8 paid to a member whose service is not included in the federal
9 system beginning with the pay period following the operative date
10 of the amendments to this section made by Senate Bill 151 of the
11 2011–12 Regular Session. If the provisions of this section are in
12 conflict with the provisions of a memorandum of understanding
13 reached pursuant to Section 3517.5, the memorandum of
14 understanding shall be controlling without further legislative action,
15 except that if those provisions of the memorandum of
16 understanding require the expenditure of funds, those provisions
17 shall not become effective unless approved by the Legislature in
18 the annual Budget Act.

19 (b) The Director of Human Resources may establish the normal
20 rate of contribution for a state employee who is excepted from the
21 definition of “state employee” in subdivision (c) of Section 3513,
22 and an officer or employee of the executive branch of state
23 government who is not a member of the civil service. The normal
24 rate of contribution shall be the same for all members identified
25 in this subdivision. The contribution rate shall be effective the
26 beginning of the pay period indicated by the Director of Human
27 Resources but shall be no earlier than the beginning of the pay
28 period following the date the board receives notification.

29 ~~SEC. 131.~~

30 *SEC. 126.* Section 20687 of the Government Code is amended
31 to read:

32 20687. (a) The normal rate of contribution for state peace
33 officer/firefighter members subject to Section 21363, 21363.1,
34 21363.3, 21363.4, or 21363.8 shall be 8 percent of the
35 compensation in excess of two hundred thirty-eight dollars (\$238)
36 per month paid to those members.

37 (b) If the provisions of this section are in conflict with the
38 provisions of a memorandum of understanding reached pursuant
39 to Section 3517.5 or pursuant to Chapter 12 (commencing with
40 Section 3560) of Division 4 of Title 1, the memorandum of

1 understanding shall be controlling without further legislative action,
2 except that if those provisions of a memorandum of understanding
3 require the expenditure of funds, those provisions shall not become
4 effective unless approved by the Legislature in the annual Budget
5 Act.

6 (c) The Director of Human Resources may establish the normal
7 rate of contribution for a state employee who is excepted from the
8 definition of “state employee” in subdivision (c) of Section 3513,
9 and an officer or employee of the executive branch of state
10 government who is not a member of the civil service. The normal
11 rate of contribution shall be the same for all members identified
12 in this subdivision. The contribution rate shall be effective the
13 beginning of the pay period indicated by the Director of Human
14 Resources but shall be no earlier than the beginning of the pay
15 period following the date the board receives notification.

16 ~~SEC. 132.~~

17 *SEC. 127.* Section 20963.1 of the Government Code is amended
18 to read:

19 20963.1. (a) A state member whose effective date of retirement
20 is within four months of separation from employment of the state,
21 shall be credited at his or her retirement with 0.004 year of service
22 for each unused day of educational leave credit, as certified to the
23 board by the employer. The provisions of this section shall be
24 effective for eligible state members who retire directly from state
25 employment on and after January 1, 2000.

26 (b) This section shall apply to eligible state members in state
27 bargaining units that have agreed to this section in a memorandum
28 of understanding, or as authorized by the Director of Human
29 Resources for classifications of state employees that are excluded
30 from the definition of “state employee” by paragraph (c) of Section
31 3513 of the Government Code.

32 ~~SEC. 133.~~

33 *SEC. 128.* Section 21159 of the Government Code is amended
34 to read:

35 21159. (a) Notwithstanding any other provision of law, a state
36 member shall not be retired for industrial disability for an illness
37 or injury that occurs on or after January 1, 1993, unless the member
38 is incapacitated for the performance of duty in any employment
39 with the state employer and the disability is of permanent or
40 extended and uncertain duration, as determined by the Department

1 of Human Resources. This section shall only apply to state safety,
2 state industrial, and state miscellaneous members employed in any
3 state bargaining units for which a memorandum of understanding
4 has been agreed to by the state employer and the recognized
5 employee organization to become subject to this section. The
6 Director of Human Resources may adopt rules regarding job
7 placement and other related activities necessary for the
8 administration of this section and Section 21195.

9 (b) A state member who, because of the enactment of this section
10 is no longer eligible to retire for industrial disability and accepts
11 alternate employment with the state in which the compensation is
12 less than that received in the position held at the time of the illness
13 or injury, shall, upon certification of the Department of Human
14 Resources to the board, become entitled to benefits under the partial
15 disability retirement program set forth in Section 21160.

16 (c) The employee shall have the right of appeal to the
17 Department of Human Resources regarding: (1) the requirement
18 to participate or (2) the exclusion from participating in the program
19 described in this section and Section 21160.

20 (d) For all other disputes relative to this section and Section
21 21160, the employee shall seek administrative remedy from his
22 or her appointing power through the departmental complaint
23 process.

24 (e) The appointing power of the affected employee shall
25 reimburse the Department of Human Resources for any costs
26 associated with the administration of this provision.

27 (f) This section shall not apply to any job-related or job-incurred
28 illness or injury that occurs on or after January 1, 2000.

29 ~~SEC. 134.~~

30 *SEC. 129.* Section 21160 of the Government Code is amended
31 to read:

32 21160. (a) Any state member who is subject to Section 21159
33 and does not qualify for industrial disability retirement under this
34 part, or is reinstated from industrial disability retirement pursuant
35 to Section 21195, and accepts another job in state service, shall be
36 paid a partial disability retirement program benefit payment from
37 this system in an amount, to be calculated by the Department of
38 Human Resources and certified to the board, that, when added to
39 the salary earned by the employee in the current state position,
40 would be equal to the state salary earned by the member at the

1 time of becoming unable to perform the duties of his or her
2 previous position. This supplemental payment shall not result in
3 the member being deemed to be retired.

4 (b) The partial disability retirement program benefit payments
5 made under this section shall be paid for by the state employer in
6 the same manner as all other state retirement benefits are funded.

7 (c) This section shall not apply to any job-related or job-incurred
8 illness or injury that occurs on or after January 1, 2000.

9 ~~SEC. 135.~~

10 *SEC. 130.* Section 21195 of the Government Code is amended
11 to read:

12 21195. (a) Notwithstanding any other section in Article 6
13 (commencing with Section 21150) or in this article, the Department
14 of Human Resources may reinstate a person who has retired for
15 industrial disability pursuant to Section 21410, within 12 months
16 after the effective date of retirement, if it has identified an available
17 position with duties that the employee is able to perform. Upon
18 reinstatement, the person shall become entitled to benefits under
19 the partial disability retirement program pursuant to Section 21160.

20 (b) This section shall not apply to any job-related or job-incurred
21 illness or injury that occurs on or after January 1, 2000.

22 ~~SEC. 136.~~

23 *SEC. 131.* Section 21223 of the Government Code is amended
24 to read:

25 21223. A retired person may serve without reinstatement from
26 retirement or loss or interruption of benefits provided under this
27 system upon approval of the Director of Human Resources or the
28 governing body of a contracting agency, as the case may be, under
29 employment by any state or contracting agency in which he or she
30 previously served while a member of this system, where by reason
31 of actual litigation, or a proceeding before the California Victim
32 Compensation and Government Claims Board or the governing
33 body of a contracting agency, as the case may be, or where the
34 state or contracting agency desires to perpetuate testimony in
35 connection with any anticipated litigation involving the state or
36 contracting agency, and adverse interests, the services of the person
37 are or may be necessary in preparing for trial or in testifying as to
38 matters within or based upon his or her knowledge acquired while
39 employed. He or she may be paid a per diem and actual and
40 necessary traveling expenses, but he or she shall not be paid at a

1 greater rate of compensation per diem than the rate ordinarily paid
2 other persons by state agencies or the contracting agency for similar
3 services. However, there shall be deducted from the per diem
4 compensation sums equal to the retirement annuity allocable to
5 the days of actual employment under this section.

6 ~~SEC. 137.~~

7 *SEC. 132.* Section 21251.13 of the Government Code is
8 amended to read:

9 21251.13. (a) Notwithstanding any other provision of law,
10 Sections 21070.5, 21070.6, 21073.1, 21073.7, 21354.1, 21362.2,
11 21363.1, and 21369.1 and the amendments to Sections 21070,
12 21071, 21072, 21073, 21073.5, and 21353.5, enacted during the
13 first year of the 1999–2000 Regular Session:

14 (1) Shall not become operative unless the board adopts a
15 resolution that does both of the following: (A) employs, for the
16 June 30, 1998, valuation, 95 percent of the market value of assets
17 of the state employer as the actuarial value of the assets; and (B)
18 amortizes the June 30, 1998, excess assets over a period of 20
19 years, beginning July 1, 1999.

20 (2) Shall not apply to a state employee, as defined in subdivision
21 (c) of Section 3513, in a bargaining unit unless and until
22 incorporated in a memorandum of understanding, pursuant to
23 Section 3517.5, applicable to that bargaining unit.

24 (3) Shall not apply to excluded employees, as defined in Section
25 3527, unless the Department of Human Resources has approved
26 the application of those provisions to those employees.
27 Notwithstanding any provision of law to the contrary, any approval
28 by the Department of Human Resources for the application of
29 these provisions to those excluded employees is irrevocable.

30 (b) Notwithstanding anything in a memorandum of
31 understanding to the contrary, (1) the benefits provided under the
32 provisions of those sections described in subdivision (a), as added
33 or amended during the first year of the 1999–2000 Regular Session,
34 shall not terminate upon the expiration or termination of the
35 memorandum of understanding, and (2) the only conditions to the
36 operation of the provisions of those sections described in
37 subdivision (a), as added or amended during the first year of the
38 1999–2000 Regular Session, are contained in this section.

39 (c) Notwithstanding Section 3517.8 or any provision of a
40 memorandum of understanding that has been continued in effect

on and after January 15, 2011, pursuant to Section 3517.8 to the contrary, the retirement formulas in Sections 21354.1, 21363.3, 21363.4, 21363.8, and 21369.1 shall only apply to state employees who were first employed and subject to those sections before January 15, 2011. Those sections shall not apply to any state employee member first employed on and after January 15, 2011.

(d) Upon request by the state employer or other entity, or on its own volition, the board may change the amortization period, or take any other action the board deems necessary or appropriate, to mitigate the impact of unforeseen factors that may cause an increase in the employer contribution by the state. Nothing in this section shall be construed to limit the board's authority under Section 17 of Article 16 of the California Constitution.

~~SEC. 138.~~

SEC. 133. Section 21353 of the Government Code is amended to read:

21353. (a) The combined current and prior service pensions for a local miscellaneous member, a school member, a state miscellaneous or state industrial member, or a university member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state or state industrial member, local miscellaneous member, school member, or a university member, or service covered under this First Tier retirement formula, with which the member is entitled to be credited at retirement:

| Age of Retirement | Fraction |
|-------------------|----------|
| 50 | .546 |
| 50¼ | .554 |
| 50½ | .562 |
| 50¾ | .570 |
| 51 | .578 |
| 51¼ | .586 |

| | | |
|----|-----|-------|
| 1 | 51½ | .595 |
| 2 | 51¾ | .603 |
| 3 | 52 | .612 |
| 4 | 52¼ | .621 |
| 5 | 52½ | .630 |
| 6 | 52¾ | .639 |
| 7 | 53 | .648 |
| 8 | 53¼ | .658 |
| 9 | 53½ | .668 |
| 10 | 53¾ | .678 |
| 11 | 54 | .688 |
| 12 | 54¼ | .698 |
| 13 | 54½ | .709 |
| 14 | 54¾ | .719 |
| 15 | 55 | .730 |
| 16 | 55¼ | .741 |
| 17 | 55½ | .753 |
| 18 | 55¾ | .764 |
| 19 | 56 | .776 |
| 20 | 56¼ | .788 |
| 21 | 56½ | .800 |
| 22 | 56¾ | .813 |
| 23 | 57 | .825 |
| 24 | 57¼ | .839 |
| 25 | 57½ | .852 |
| 26 | 57¾ | .865 |
| 27 | 58 | .879 |
| 28 | 58¼ | .893 |
| 29 | 58½ | .908 |
| 30 | 58¾ | .923 |
| 31 | 59 | .937 |
| 32 | 59¼ | .953 |
| 33 | 59½ | .969 |
| 34 | 59¾ | .985 |
| 35 | 60 | 1.000 |
| 36 | 60¼ | 1.017 |
| 37 | 60½ | 1.034 |
| 38 | 60¾ | 1.050 |
| 39 | 61 | 1.067 |
| 40 | 61¼ | 1.084 |

| | | |
|---|-------------------|-------|
| 1 | 61½ | 1.101 |
| 2 | 61¾ | 1.119 |
| 3 | 62 | 1.136 |
| 4 | 62¼ | 1.154 |
| 5 | 62½ | 1.173 |
| 6 | 62¾ | 1.191 |
| 7 | 63 and over | 1.209 |

8

9 (b) The fractions specified in the above table shall be reduced
10 by one-third as applied to that part of final compensation that does
11 not exceed four hundred dollars (\$400) per month for all service
12 of a member any of whose service has been included in the federal
13 system. This reduction shall not apply to a member employed by
14 a contracting agency that enters into a contract after July 1, 1971,
15 and elects not to be subject to this paragraph or with respect to
16 service rendered after the termination of coverage under the federal
17 system with respect to the coverage group to which the member
18 belongs.

19 (c) The improved retirement allowance provided by this section
20 is granted subject to future reduction prior to a member's
21 retirement, by offset of federal system benefits or otherwise, as
22 the Legislature may from time to time deem appropriate because
23 of changes in the federal system benefits.

24 (d) With the exception of state miscellaneous members for
25 service rendered for the California State University or the
26 legislative or judicial branch of government, this section shall
27 apply to state miscellaneous and state industrial members who are
28 not employed by the state on or after January 1, 2000.

29 (e) (1) This section shall apply to a state miscellaneous or
30 industrial member who is employed by the state for the first time
31 and becomes a state miscellaneous or industrial member of the
32 system on or after the first day of the pay period following the
33 effective date of the act adding this subdivision, and is represented
34 by State Bargaining Unit 12, 16, 18, or 19. With respect to related
35 state miscellaneous or industrial members in managerial,
36 supervisory, or confidential positions and officers or employees
37 of the executive branch of state government who are not members
38 of the civil service, the Director of Human Resources may exercise
39 his or her discretion whether to approve their status in writing to
40 the board.

1 (2) This subdivision does not apply to:

2 (A) Former state employees previously employed before the
3 first day of the pay period following the effective date of this
4 subdivision, who return to state employment on or after the first
5 day of the pay period following the effective date of this
6 subdivision.

7 (B) State employees hired prior to the first day of the pay period
8 following the effective date of this subdivision, who were subject
9 to Section 20281.5 during the first 24 months of state employment.

10 (C) State employees hired prior to the first day of the pay period
11 following the effective date of this subdivision, who become
12 subject to representation by State Bargaining Unit 12, 16, 18, or
13 19 on or after the first day of the pay period following the effective
14 date of the act adding this subdivision.

15 (D) State employees on an approved leave of absence employed
16 before the first day of the pay period following the effective date
17 of this subdivision, who return to active employment on or after
18 the first day of the pay period following the effective date of the
19 act adding this subdivision.

20 (f) (1) This section shall apply to a state miscellaneous or
21 industrial member who is employed by the state for the first time
22 and becomes a state miscellaneous or industrial member of the
23 system on or after October 31, 2010, and is represented by State
24 Bargaining Unit 5 or 8. With respect to related state miscellaneous
25 or industrial members in managerial, supervisory, or confidential
26 positions and officers or employees of the executive branch of
27 state government who are not members of the civil service, the
28 Director of Human Resources may exercise his or her discretion
29 whether to approve their status in writing to the board.

30 (2) This subdivision does not apply to:

31 (A) Former state employees previously employed before October
32 31, 2010, who return to state employment on or after October 31,
33 2010.

34 (B) State employees hired prior to October 31, 2010, who were
35 subject to Section 20281.5 during the first 24 months of state
36 employment.

37 (C) State employees hired prior to October 31, 2010, who
38 become subject to representation by State Bargaining Unit 5 or 8
39 on or after October 31, 2010.

1 (D) State employees on an approved leave of absence employed
2 before October 1, 2010, who return to active employment on or
3 after October 31, 2010.

4 (g) (1) Notwithstanding Section 3517.8 or any provision of an
5 expired memorandum of understanding, this section shall also
6 apply to a state miscellaneous or industrial member who is
7 employed by the state, the Legislature, the judicial branch, or the
8 California State University for the first time and becomes a member
9 of the system on or after January 15, 2011.

10 (2) If this subdivision is in conflict with a memorandum of
11 understanding that is current and in effect on January 15, 2011,
12 the memorandum of understanding shall be controlling while it
13 remains in effect. Upon expiration of the memorandum of
14 understanding that is in effect and current on January 15, 2011,
15 this section shall be controlling and may not be superseded by a
16 subsequent memorandum of understanding.

17 (3) This subdivision does not apply to:

18 (A) Former state, legislative, judicial branch, or university
19 employees previously employed before January 15, 2011, who
20 return to employment on or after January 15, 2011, and who were
21 not previously subject to this section.

22 (B) State employees hired prior to January 15, 2011, who were
23 subject to Section 20281.5 during the first 24 months of state
24 employment, and who were not previously subject to this section.

25 (C) State, legislative, judicial branch, or university employees
26 on an approved leave of absence employed before January 15,
27 2011, who return to active employment on or after January 15,
28 2011, and who were not previously subject to this section.

29 ~~SEC. 139.~~

30 *SEC. 134.* Section 21354.1 of the Government Code is amended
31 to read:

32 21354.1. (a) The combined current and prior service pensions
33 for school members, state miscellaneous or state industrial
34 members, or university members who are subject to the provisions
35 of this section is a pension derived from the contributions of the
36 employer sufficient, when added to the service retirement annuity
37 that is derived from the accumulated normal contributions of the
38 member at the date of retirement, to equal the fraction of
39 one-fiftieth of the member's final compensation set forth opposite
40 the member's age at retirement, taken to the preceding completed

quarter year, in the following table, multiplied by the number of years of current and prior service, except service in a category of membership other than that of a school member, state miscellaneous or state industrial member, or university member or service covered under this retirement formula with which the member is entitled to be credited at retirement:

| Age at retirement | Fraction |
|------------------------|----------|
| 50 | 0.550 |
| 50 $\frac{1}{4}$ | 0.573 |
| 50 $\frac{1}{2}$ | 0.595 |
| 50 $\frac{3}{4}$ | 0.618 |
| 51 | 0.640 |
| 51 $\frac{1}{4}$ | 0.663 |
| 51 $\frac{1}{2}$ | 0.685 |
| 51 $\frac{3}{4}$ | 0.708 |
| 52 | 0.730 |
| 52 $\frac{1}{4}$ | 0.753 |
| 52 $\frac{1}{2}$ | 0.775 |
| 52 $\frac{3}{4}$ | 0.798 |
| 53 | 0.820 |
| 53 $\frac{1}{4}$ | 0.843 |
| 53 $\frac{1}{2}$ | 0.865 |
| 53 $\frac{3}{4}$ | 0.888 |
| 54 | 0.910 |
| 54 $\frac{1}{4}$ | 0.933 |
| 54 $\frac{1}{2}$ | 0.955 |
| 54 $\frac{3}{4}$ | 0.978 |
| 55 | 1.000 |
| 55 $\frac{1}{4}$ | 1.008 |
| 55 $\frac{1}{2}$ | 1.016 |
| 55 $\frac{3}{4}$ | 1.024 |
| 56 | 1.032 |
| 56 $\frac{1}{4}$ | 1.040 |
| 56 $\frac{1}{2}$ | 1.048 |
| 56 $\frac{3}{4}$ | 1.055 |
| 57 | 1.063 |
| 57 $\frac{1}{4}$ | 1.071 |
| 57 $\frac{1}{2}$ | 1.079 |

| | | |
|----|-------------------|-------|
| 1 | 57¾ | 1.086 |
| 2 | 58 | 1.094 |
| 3 | 58¼ | 1.102 |
| 4 | 58½ | 1.110 |
| 5 | 58¾ | 1.118 |
| 6 | 59 | 1.125 |
| 7 | 59¼ | 1.134 |
| 8 | 59½ | 1.141 |
| 9 | 59¾ | 1.149 |
| 10 | 60 | 1.157 |
| 11 | 60¼ | 1.165 |
| 12 | 60½ | 1.173 |
| 13 | 60¾ | 1.180 |
| 14 | 61 | 1.188 |
| 15 | 61¼ | 1.196 |
| 16 | 61½ | 1.203 |
| 17 | 61¾ | 1.211 |
| 18 | 62 | 1.219 |
| 19 | 62¼ | 1.227 |
| 20 | 62½ | 1.235 |
| 21 | 62¾ | 1.243 |
| 22 | 63 and over | 1.250 |

23
24 (b) The fraction specified in the above table shall be reduced
25 by one-third as applied to that part of final compensation that does
26 not exceed four hundred dollars (\$400) per month for all service
27 of a member any of whose service has been included in the federal
28 system. This subdivision shall not apply to school members whose
29 service is included in the federal system with respect to service
30 performed on or after January 1, 2001.

31 (c) This section shall supersede Section 21353 for all school
32 members, all university members, and all state miscellaneous
33 members, with respect to service rendered for the California State
34 University or the legislative or judicial branch of government, who
35 retire on or after January 1, 2000.

36 (d) This section shall also supersede Section 21353 for state
37 miscellaneous or state industrial members, for service not subject
38 to subdivision (c), who are employed by the state on or after
39 January 1, 2000, and who do not elect under Section 21070.5 to
40 be subject to Second Tier benefits.

1 (e) Operation and application of this section are subject to the
2 limitations set forth in Section 21251.13.

3 (f) Notwithstanding any other provision of this section, this
4 section shall not apply to a state miscellaneous or industrial
5 member who is employed by the state for the first time and
6 becomes a state miscellaneous or industrial member of the system
7 on or after the first day of the pay period following the effective
8 date of the act adding this subdivision, and is represented by State
9 Bargaining Unit 12, 16, 18, or 19. With respect to related state
10 miscellaneous or industrial members in managerial, supervisory,
11 or confidential positions and officers or employees of the executive
12 branch of state government who are not members of the civil
13 service, the Director of Human Resources may exercise his or her
14 discretion whether to approve their status in writing to the board.

15 (g) Notwithstanding any other provision of this section, this
16 section shall not apply to a state miscellaneous or industrial
17 member who is employed by the state for the first time and
18 becomes a state miscellaneous or industrial member of the system
19 on or after October 31, 2010, and is represented by State
20 Bargaining Unit 5 or 8. With respect to related state miscellaneous
21 or industrial members in managerial, supervisory, or confidential
22 positions and officers or employees of the executive branch of
23 state government who are not members of the civil service, the
24 Director of Human Resources may exercise his or her discretion
25 whether to approve their status in writing to the board.

26 (h) (1) Notwithstanding Section 3517.8 or any provision of an
27 expired memorandum of understanding, or any other provision of
28 this section, this section shall not apply to a state miscellaneous
29 or industrial member who is employed by the state, the Legislature,
30 the judicial branch, or the California State University for the first
31 time and becomes a member of the system on or after January 15,
32 2011.

33 (2) If this subdivision is in conflict with a memorandum of
34 understanding that is current and in effect on January 15, 2011,
35 the memorandum of understanding shall be controlling while it
36 remains in effect. Upon expiration of the memorandum of
37 understanding that is in effect and current on January 15, 2011,
38 this section shall be controlling and may not be superseded by a
39 subsequent memorandum of understanding.

1 ~~SEC. 140.~~

2 ~~SEC. 135.~~ Section 21362.2 of the Government Code is amended
3 to read:

4 21362.2. (a) Upon attaining the age of 50 years or more, the
5 combined current and prior service pension for state patrol
6 members and for local safety members with respect to local safety
7 service rendered to a contracting agency that is subject to the
8 provisions of this section is a pension derived from the
9 contributions of the employer sufficient when added to the service
10 retirement annuity that is derived from the accumulated normal
11 contributions of the member at the date of his or her retirement to
12 equal 3 percent of his or her final compensation at retirement,
13 multiplied by the number of years of patrol service or local safety
14 service subject to this section with which he or she is credited at
15 retirement.

16 (b) In no event shall the current service pension and the
17 combined current and prior service pensions under this section for
18 all service to all employers exceed an amount that, when added to
19 the service retirement annuity related to that service, equals 85
20 percent of final compensation. For state patrol members with
21 respect to service for all state employers under this section, the
22 benefit shall not exceed 90 percent of final compensation. If the
23 pension relates to service to more than one employer and would
24 otherwise exceed that maximum, the pension payable with respect
25 to each employer shall be reduced in the same proportion as the
26 allowance based on service to that employer bears to the total
27 allowance computed as though there were no limit, so that the total
28 of the pensions shall equal the maximum. Where a state or local
29 member has service under this section with both state and local
30 agency employers, the higher maximum shall apply and the
31 additional benefit shall be funded by increasing the member's
32 pension payable with respect to the employer for whom the member
33 performed the service subject to the higher maximum.

34 (c) For patrol members employed by the state on or after January
35 1, 2000, this section shall supersede Section 21362.

36 (d) This section shall not apply to state safety or state peace
37 officer/firefighter members.

38 (e) This section shall not apply to any contracting agency nor
39 its employees unless and until the agency elects to be subject to
40 the provisions of this section by amendment to its contract made

1 in the manner prescribed for approval of contracts or, in the case
2 of contracts made after the date this section becomes operative,
3 by express provision in the contract making the contracting agency
4 subject to this section. The operative date of this section for a local
5 safety member shall be the effective date of the amendment to his
6 or her employer's contract electing to be subject to this section.

7 (f) This section shall supersede Section 21362, 21363, 21363.1,
8 21366, 21368, 21369, or 21370, whichever is then applicable, with
9 respect to local safety members who retire after the date this section
10 becomes applicable to their respective employers.

11 (g) The Legislature reserves, with respect to any member subject
12 to this section, the right to provide for the adjustment of industrial
13 disability retirement allowances because of earnings of a retired
14 person and modification of the conditions and qualifications
15 required for retirement for disability as it may find appropriate
16 because of the earlier ages of service retirement made possible by
17 the benefits under this section.

18 (h) Operation and application of this section is subject to the
19 limitations set forth in Section 21251.13.

20 (i) Notwithstanding any other provision of this section, this
21 section shall not apply to a state patrol member who is employed
22 by the state for the first time and becomes a state patrol member
23 of the system on or after October 31, 2010, and is represented by
24 State Bargaining Unit 5. With respect to related state patrol
25 members in managerial, supervisory, or confidential positions and
26 officers or employees of the executive branch of state government
27 who are not members of the civil service, the Director of Human
28 Resources may exercise his or her discretion whether to approve
29 their status in writing to the board.

30 ~~SEC. 141.~~

31 *SEC. 136.* Section 21363 of the Government Code is amended
32 to read:

33 21363. (a) The combined current and prior service pensions
34 for state peace officer/firefighter members subject to this section
35 with respect to state peace officer/firefighter service and the
36 combined current and prior service pensions for local safety
37 members with respect to local safety service rendered to a
38 contracting agency that is subject to this section is a pension
39 derived from the contributions of the employer sufficient when
40 added to the service retirement annuity that is derived from the

accumulated normal contributions of the state peace officer/firefighter or local safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

| Age at Retirement | Fraction |
|------------------------|----------|
| 50 | 1.0000 |
| 50 $\frac{1}{4}$ | 1.0125 |
| 50 $\frac{1}{2}$ | 1.0250 |
| 50 $\frac{3}{4}$ | 1.0375 |
| 51 | 1.0500 |
| 51 $\frac{1}{4}$ | 1.0625 |
| 51 $\frac{1}{2}$ | 1.0750 |
| 51 $\frac{3}{4}$ | 1.0875 |
| 52 | 1.1000 |
| 52 $\frac{1}{4}$ | 1.1125 |
| 52 $\frac{1}{2}$ | 1.1250 |
| 52 $\frac{3}{4}$ | 1.1375 |
| 53 | 1.1500 |
| 53 $\frac{1}{4}$ | 1.1625 |
| 53 $\frac{1}{2}$ | 1.1750 |
| 53 $\frac{3}{4}$ | 1.1875 |
| 54 | 1.2000 |
| 54 $\frac{1}{4}$ | 1.2125 |
| 54 $\frac{1}{2}$ | 1.2250 |
| 54 $\frac{3}{4}$ | 1.2375 |
| 55 and over..... | 1.2500 |

(b) (1) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation.

(2) For state members, with respect to service for all state employers under this section, the benefit shall not exceed:

1 (A) Eighty percent of final compensation for state members
2 who retire on or after January 1, 1995.

3 (B) Eighty-five percent of final compensation for state peace
4 officer/firefighter members in State Bargaining Units 6 and 8 who
5 retire on or after January 1, 1999, and prior to January 1, 2000.

6 (C) Ninety percent of final compensation for state peace
7 officer/firefighter members who retire on or after January 1, 2000.

8 (3) For local safety members who retire on or after January 1,
9 2000, the benefit shall not exceed 85 percent of final compensation.

10 If the pension relates to service to more than one employer, or this
11 section and Section 21369, and would otherwise exceed that
12 maximum, the pension payable with respect to each section or
13 employer shall be reduced in the same proportion as the allowance
14 bears to the total allowance computed as though there were no
15 limit, so that the total of the pensions shall equal the maximum.
16 Where a state or local member retiring on or after January 1, 1995,
17 has service under this section with both state and local agency
18 employers, the higher maximum shall apply and the additional
19 benefit, if any, shall be funded by increasing the member's pension
20 payable with respect to the employer for whom the member
21 performed the service subject to the higher maximum.

22 (c) The Legislature reserves, with respect to any member subject
23 to this section, the right to provide for the adjustment of industrial
24 disability retirement allowances because of earnings of a retired
25 person and modification of the conditions and qualifications
26 required for retirement for disability as it may find appropriate
27 because of the earlier age of service retirement made possible by
28 the benefits under this section.

29 (d) This section may be applied to related supervisory classes
30 or confidential positions for the respective bargaining units
31 specified in this section.

32 (e) (1) This section shall be operative with respect to state peace
33 officer/firefighter members in Corrections Bargaining Unit No. 6,
34 Protective Services and Public Safety Bargaining Unit No. 7, or
35 Firefighters Bargaining Unit No. 8, in accordance with a
36 memorandum of understanding reached between the state and the
37 exclusive bargaining agent in the respective unit pursuant to
38 Chapter 10.3 (commencing with Section 3512) of Division 4 of
39 Title 1.

1 (2) This section also shall be operative with respect to the state
2 peace officer/firefighter members employed by a California State
3 University police department who are in Public Safety Unit No. 8
4 in accordance with a memorandum of understanding reached
5 between the Trustees of the California State University and the
6 recognized employee organization pursuant to Chapter 12
7 (commencing with Section 3560) of Division 4 of Title 1.

8 (3) This section shall also be operative with respect to a “state
9 peace officer/firefighter member” defined in subdivision (a) of
10 Section 20396 if authorized by, and in accordance with, a
11 memorandum of understanding reached between the Trustees of
12 the California State University and the recognized employee
13 organization pursuant to Chapter 12 (commencing with Section
14 3560) of Division 4 of Title 1.

15 (4) Nothing in this section or in any other provision of law
16 affected by Chapter 1320 of the Statutes of 1984 or Chapter 234
17 of the Statutes of 1986 shall be construed as authorizing any future
18 negotiation with respect to whether or not any bargaining unit
19 specified in this section whose memorandum of understanding
20 was previously approved by the Legislature pursuant to law and
21 this section, shall continue to remain within the state peace
22 officer/firefighter membership category.

23 (5) The operative date of this section with respect to members
24 in each of the bargaining units specified in this section shall be as
25 provided for in the memorandum of understanding.

26 (6) With the exception of state peace officer/firefighter members
27 for service rendered for the California State University or the
28 legislative or judicial branch of government, this section shall
29 apply to state peace officer/firefighter members who are not
30 employed by the state on or after January 1, 2000.

31 (f) This section shall be known as, and may be cited as, the State
32 Peace Officers’ and Fire Fighters’ Retirement Act.

33 (g) The Legislature reserves the right to subsequently modify
34 or amend this part in order to completely effectuate the intent and
35 purposes of this section and the right to not provide any new
36 comparable advantages if disadvantages to employees result from
37 any modification or amendment.

38 (h) This section shall not apply to a contracting agency nor its
39 employees until, first, it is agreed to in a written memorandum of
40 understanding entered into by an employer and representatives of

employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

(i) Notwithstanding Section 3517.8 or any provision of an expired memorandum of understanding, this section shall apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after January 15, 2011, and is represented by State Bargaining Unit 6 or 7. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of Human Resources may exercise his or her discretion whether to approve their status in writing to the board.

(j) (1) This section shall also apply to a state peace officer/firefighter member who is employed by the California State University or judicial branch of government or the Legislature for the first time and becomes a state peace officer/firefighter member on or after January 15, 2011.

(2) If this subdivision is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

(k) Subdivisions (i) and (j) do not apply to:

(1) Former state, legislative, judicial branch, or California State University employees employed before January 15, 2011, who return to state or university employment on or after January 15, 2011, and who were not previously subject to this section.

(2) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment and who were not previously subject to this section.

(3) State employees hired prior to January 15, 2011, who become subject to representation by State Bargaining Unit 6 or 7 on or after January 15, 2011, and who were not previously subject to this section.

(4) State, legislative, judicial branch, or California State University employees on an approved leave of absence before January 15, 2011, who return to active employment on or after January 15, 2011, and who were not previously subject to this section.

~~SEC. 142.~~

SEC. 137. Section 21363.1 of the Government Code is amended to read:

21363.1. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service, and for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member or local safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

| Age at Retirement | Fraction |
|-------------------|----------|
| 50 | .800 |
| 50¼ | .810 |
| 50½ | .820 |
| 50¾ | .830 |
| 51 | .840 |
| 51¼ | .850 |
| 51½ | .860 |

| | | |
|----|-------------|-------|
| 1 | 51¾ | .870 |
| 2 | 52 | .880 |
| 3 | 52¼ | .890 |
| 4 | 52½ | .900 |
| 5 | 52¾ | .910 |
| 6 | 53 | .920 |
| 7 | 53¼ | .930 |
| 8 | 53½ | .940 |
| 9 | 53¾ | .950 |
| 10 | 54 | .960 |
| 11 | 54¼ | .970 |
| 12 | 54½ | .980 |
| 13 | 54¾ | .990 |
| 14 | 55 and over | 1.000 |

15

16 (b) In no event shall the current service pension and the
 17 combined current and prior service pensions under this section for
 18 all service to all employers exceed an amount that, when added to
 19 the service retirement annuity related to that service, equals 85
 20 percent of final compensation. For state peace officer/firefighter
 21 members with respect to service for all state employers under this
 22 section, the benefit shall not exceed 90 percent of final
 23 compensation. If the pension relates to service to more than one
 24 employer and would otherwise exceed that maximum, the pension
 25 payable with respect to each employer shall be reduced in the same
 26 proportion as the allowance based on service to that employer
 27 bears to the total allowance computed as though there were no
 28 limit, so that the total of the pensions shall equal the maximum.
 29 Where a state or local member has service under this section with
 30 both state and local agency employers, the higher maximum shall
 31 apply and the additional benefit shall be funded by increasing the
 32 member's pension payable with respect to the employer for whom
 33 the member performed the service subject to the higher maximum.

34 (c) This section shall supersede Section 21363 for state peace
 35 officer/firefighter members with respect to service rendered for
 36 the California State University or the legislative or judicial branch
 37 of government.

38 (d) This section shall also supersede Section 21363 for state
 39 peace officer/firefighter members, for service not subject to

1 subdivision (c), who are employed by the state on or after January
2 1, 2000.

3 (e) This section shall not apply to any contracting agency nor
4 its employees unless and until the agency elects to be subject to
5 the provisions of this section by amendment to its contract made
6 in the manner prescribed for approval of contracts or, in the case
7 of contracts made after the date this section becomes operative,
8 by express provision in the contract making the contracting agency
9 subject to this section. The operative date of this section for a local
10 safety member shall be the effective date of the amendment to his
11 or her employer's contract electing to be subject to this section.

12 (f) This section shall supersede Section 21363, 21366, 21368,
13 21369, or 21370, whichever is then applicable, with respect to
14 local safety members who retire after the date this section becomes
15 applicable to their respective employers.

16 (g) The Legislature reserves, with respect to any member subject
17 to this section, the right to provide for the adjustment of industrial
18 disability retirement allowances because of earnings of a retired
19 person and modification of the conditions and qualifications
20 required for retirement for disability as it may find appropriate
21 because of the earlier age of service retirement made possible by
22 the benefits under this section.

23 (h) The Legislature reserves the right to subsequently modify
24 or amend this part in order to completely effectuate the intent and
25 purposes of this section and the right to not provide any new
26 comparable advantages if disadvantages to employees result from
27 any modification or amendment.

28 (i) Operation and application of this section are subject to the
29 limitations set forth in Section 21251.13.

30 (j) This section shall apply to a state patrol member who is
31 employed by the state for the first time and becomes a state patrol
32 member of the system on or after October 31, 2010, and is
33 represented by State Bargaining Unit 5. With respect to related
34 state patrol members in managerial, supervisory, or confidential
35 positions and officers or employees of the executive branch of
36 state government who are not members of the civil service, the
37 Director of Human Resources may exercise his or her discretion
38 whether to approve their status in writing to the board.

39 (k) This section shall apply to a state peace officer/firefighter
40 member who is employed by the state for the first time and

1 becomes a state peace officer/firefighter member of the system on
2 or after October 31, 2010, and is represented by State Bargaining
3 Unit 8. With respect to related state peace officer/firefighter
4 members in managerial, supervisory, or confidential positions and
5 officers or employees of the executive branch of state government
6 who are not members of the civil service, the Director of Human
7 Resources may exercise his or her discretion whether to approve
8 their status in writing to the board.

9 (l) Subdivisions (j) and (k) do not apply to:

10 (1) Former state employees previously employed before October
11 31, 2010, who return to state employment on or after October 31,
12 2010.

13 (2) State employees hired prior to October 31, 2010, who were
14 subject to Section 20281.5 during the first 24 months of state
15 employment.

16 (3) State employees hired prior to October 31, 2010, who
17 become subject to representation by State Bargaining Unit 5 or 8
18 on or after October 31, 2010.

19 (4) State employees on an approved leave of absence employed
20 before October 31, 2010, who return to active employment on or
21 after October 31, 2010.

22 (m) (1) Notwithstanding any other provision of this section,
23 this section shall not apply to a peace officer/firefighter member
24 who is employed for the first time by the California State
25 University or the legislative or judicial branch and becomes a state
26 peace officer/firefighter member of the system on or after January
27 15, 2011.

28 (2) If this subdivision is in conflict with a memorandum of
29 understanding that is current and in effect on January 15, 2011,
30 the memorandum of understanding shall be controlling while it
31 remains in effect. Upon expiration of the memorandum of
32 understanding that is in effect and current on January 15, 2011,
33 this section shall be controlling and may not be superseded by a
34 subsequent memorandum of understanding.

35 (n) Notwithstanding Section 3517.8, or any provision of an
36 expired memorandum of understanding, or any other provision of
37 this section, this section shall not apply to those peace
38 officer/firefighter members in State Bargaining Units 6 and 7 first
39 employed by the state on or after January 15, 2011.

1 ~~SEC. 143.~~

2 *SEC. 138.* Section 21363.4 of the Government Code is amended
3 to read:

4 21363.4. (a) Upon attaining the age of 50 years or more, the
5 combined current and prior service pension for a state peace
6 officer/firefighter member described in subdivision (c) who retires
7 or dies on or after January 1, 2006, is a pension derived from the
8 contributions of the employer sufficient when added to the service
9 retirement annuity that is derived from the accumulated normal
10 contributions of the member at the date of his or her retirement to
11 equal 3 percent of his or her final compensation at retirement,
12 multiplied by the number of years of state peace officer/firefighter
13 service, as defined in subdivision (d), subject to this section with
14 which he or she is credited at retirement.

15 (b) For state peace officer/firefighter members, with respect to
16 service for all state employers under this section, the current service
17 pension and the combined current and prior service pension under
18 this section shall not exceed an amount that, when added to the
19 service retirement annuity related to that service, equals 90 percent
20 of final compensation. If the pension relates to service to more
21 than one employer and would otherwise exceed that maximum,
22 the pension payable with respect to each employer shall be reduced
23 in the same proportion as the allowance based on service to that
24 employer bears to the total allowance computed as though there
25 were no limit, so that the total of the pensions shall equal the
26 maximum.

27 (c) For purposes of this section, “state peace officer/firefighter
28 member” means state peace officer/firefighter members under this
29 part who, on or after January 1, 2006, are employed by the state
30 and are members of State Bargaining Unit 6 or State Bargaining
31 Unit 8, and may include state peace officer/firefighter members
32 in related managerial, supervisory, or confidential positions and
33 officers or employees of the executive branch of state government
34 who are not members of the civil service, provided the Department
35 of Human Resources has approved their inclusion in writing to the
36 board.

37 (d) For purposes of this section, “state peace officer/firefighter
38 service” means service performed by a state peace
39 officer/firefighter member while a member of State Bargaining
40 Unit 6 or State Bargaining Unit 8, and may include state peace

1 officer/firefighter service in related managerial, supervisory, or
2 confidential positions or as officers or employees of the executive
3 branch of state government who are not members of the civil
4 service, provided the Department of Human Resources has
5 approved their inclusion in writing to the board.

6 (e) This section shall supersede Section 21363 or 21363.1,
7 whichever is applicable, with respect to state peace
8 officer/firefighter members and service as defined herein.

9 (f) The Legislature reserves, with respect to any member subject
10 to this section, the right to provide for the adjustment of industrial
11 disability retirement allowances because of earnings of a retired
12 person and modification of the conditions and qualifications
13 required for retirement for disability as it may find appropriate
14 because of the earlier ages of service retirement made possible by
15 the benefits under this section.

16 (g) Notwithstanding any other provision of this section, this
17 section shall not apply to a state peace officer/firefighter member
18 who is employed by the state for the first time and becomes a state
19 peace officer/firefighter member of the system on or after October
20 31, 2010, and is represented by State Bargaining Unit 8. With
21 respect to related state peace officer/firefighter members in
22 managerial, supervisory, or confidential positions and officers or
23 employees of the executive branch of state government who are
24 not members of the civil service, the Director of Human Resources
25 may exercise his or her discretion whether to approve their status
26 in writing to the board.

27 (h) Notwithstanding Section 3517.8, or any provision of an
28 expired memorandum of understanding, or any other provision of
29 this section, this section shall not apply to a state peace
30 officer/firefighter member who is employed by the state for the
31 first time and becomes a state peace officer/firefighter member of
32 the system on or after January 15, 2011, and is represented by State
33 Bargaining Unit 6. With respect to related state peace
34 officer/firefighter members in managerial, supervisory, or
35 confidential positions and officers or employees of the executive
36 branch of state government who are not members of the civil
37 service, the Director of Human Resources may exercise his or her
38 discretion whether to approve their status in writing to the board.

1 ~~SEC. 144.~~

2 *SEC. 139.* Section 21363.8 of the Government Code is amended
3 to read:

4 21363.8. (a) Upon attaining the age of 50 years or more, the
5 combined current and prior service pension for a state peace
6 officer/firefighter member described in subdivision (c) who retires
7 or dies on or after January 1, 2004, is a pension derived from the
8 contributions of the employer sufficient when added to the service
9 retirement annuity that is derived from the accumulated normal
10 contributions of the member at the date of his or her retirement to
11 equal 3 percent of his or her final compensation at retirement,
12 multiplied by the number of years of state peace officer/firefighter
13 service, as defined in subdivision (d), subject to this section with
14 which he or she is credited at retirement.

15 (b) For state peace officer/firefighter members, with respect to
16 service for all state employers under this section, the current service
17 pension and the combined current and prior service pension under
18 this section may not exceed an amount that, when added to the
19 service retirement annuity related to that service, equals 90 percent
20 of final compensation. If the pension relates to service to more
21 than one employer and would otherwise exceed that maximum,
22 the pension payable with respect to each employer shall be reduced
23 in the same proportion as the allowance based on service to that
24 employer bears to the total allowance computed as though there
25 were no limit, so that the total of the pensions shall equal the
26 maximum.

27 (c) (1) This section shall apply to state peace officer/firefighter
28 members under this part who, on or after January 1, 2004, are
29 employed by the state and are members of State Bargaining Unit
30 7.

31 (2) This section may also apply to state peace officer/firefighter
32 members in managerial, supervisory, or confidential positions that
33 are related to the members described in paragraph (1) and to
34 officers or employees of the executive branch of state government
35 who are not members of the civil service and who are in positions
36 that are related to the members described in paragraph (1), if the
37 Department of Human Resources has approved their inclusion in
38 writing to the board.

39 (d) (1) For purposes of this section, “state peace
40 officer/firefighter service” means service performed by a state

1 peace officer/firefighter member while a member of State
2 Bargaining Unit 7.

3 (2) That service may include state peace officer/firefighter
4 service in managerial, supervisory, or confidential positions that
5 are related to the members described in paragraph (1) or as officers
6 or employees of the executive branch of state government who are
7 not members of the civil service and who are in positions that are
8 related to the members described in paragraph (1), provided the
9 Department of Human Resources has approved their inclusion in
10 writing to the board.

11 (e) This section shall supersede Section 21363 or 21363.1,
12 whichever is applicable, with respect to state peace
13 officer/firefighter members subject to this section and state peace
14 officer/firefighter service as defined herein.

15 (f) The Legislature reserves, with respect to any member subject
16 to this section, the right to provide for the adjustment of industrial
17 disability retirement allowances because of earnings of a retired
18 person and modification of the conditions and qualifications
19 required for retirement for disability as it may find appropriate
20 because of the earlier ages of service retirement made possible by
21 the benefits under this section.

22 (g) Notwithstanding Section 3517.8, or any provision of an
23 expired memorandum of understanding, or any other provision of
24 this section, this section shall not apply to a state peace
25 officer/firefighter member who is employed by the state for the
26 first time and becomes a state peace officer/firefighter member of
27 the system on or after January 15, 2011, and is represented by State
28 Bargaining Unit 7. With respect to related state peace
29 officer/firefighter members in managerial, supervisory, or
30 confidential positions and officers or employees of the executive
31 branch of state government who are not members of the civil
32 service, the Director of Human Resources may exercise his or her
33 discretion whether to approve their status in writing to the board.

34 ~~SEC. 145.~~

35 *SEC. 140.* Section 21369 of the Government Code is amended
36 to read:

37 21369. (a) The combined prior and current service pension
38 for a state safety member, and a local safety member with respect
39 to service to a contracting agency subject to this section, upon
40 retirement after attaining the age of 55 years, is a pension derived

from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

| If the retirement age occurs at: | | The percent for each year of credited service |
|----------------------------------|-------|---|
| | | is: |
| 50 | ..... | 0.713 |
| 50 $\frac{1}{4}$ | ..... | 0.725 |
| 50 $\frac{1}{2}$ | ..... | 0.737 |
| 50 $\frac{3}{4}$ | ..... | 0.749 |
| 51 | ..... | 0.761 |
| 51 $\frac{1}{4}$ | ..... | 0.775 |
| 51 $\frac{1}{2}$ | ..... | 0.788 |
| 51 $\frac{3}{4}$ | ..... | 0.801 |
| 52 | ..... | 0.814 |
| 52 $\frac{1}{4}$ | ..... | 0.828 |
| 52 $\frac{1}{2}$ | ..... | 0.843 |
| 52 $\frac{3}{4}$ | ..... | 0.857 |
| 53 | ..... | 0.871 |
| 53 $\frac{1}{4}$ | ..... | 0.886 |
| 53 $\frac{1}{2}$ | ..... | 0.902 |
| 53 $\frac{3}{4}$ | ..... | 0.917 |
| 54 | ..... | 0.933 |
| 54 $\frac{1}{4}$ | ..... | 0.950 |

| | | |
|---|----------------------------------|------------------|
| 1 | | The percent for |
| 2 | | each year of |
| 3 | | credited service |
| 4 | If the retirement age occurs at: | is: |
| 5 | 54 1/2 | 0.966 |
| 6 | 54 3/4 | 0.983 |

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars (\$400) per month for service after the effective date of

1 coverage of a member under the federal system. This subdivision
2 shall not apply to a member who retires after the date upon which
3 coverage under the federal system of persons in his or her
4 employment terminates. It shall not apply to a local safety member
5 employed by a contracting agency electing to be subject to this
6 section after March 7, 1973, unless the agency elects to be subject
7 to this paragraph by amendment to its contract or by appropriate
8 provision of a contract entered into after this provision is effective
9 and as to any member, the reduction in the percentage of final
10 compensation shall apply to all local safety service to the agency,
11 if any of the local safety service has been included in the federal
12 system.

13 (g) With the exception of state safety members for service
14 rendered for the California State University, this section shall apply
15 to state safety members who are not employed by the state on or
16 after January 1, 2000.

17 (h) This section shall not apply to a contracting agency nor its
18 employees until the agency elects to be subject to it by amendment
19 to its contract made in the manner prescribed for approval of
20 contracts or in the case of a new contract, by express provision of
21 the contract. The operative date of this section with respect to a
22 local safety member shall be the effective date of the amendment
23 to his or her employer's contract electing to be subject to this
24 section.

25 (i) (1) Notwithstanding Section 3517.8 or any provision of an
26 expired memorandum of understanding, this section shall also
27 apply to a state safety member who is employed by the state or
28 the California State University for the first time and becomes a
29 state safety member of the system on or after January 15, 2011.
30 With respect to related state safety members in managerial,
31 supervisory, or confidential positions and officers or employees
32 of the executive branch of state government who are not members
33 of the civil service, the Director of Human Resources may exercise
34 his or her discretion whether to approve their status in writing to
35 the board.

36 (2) If this subdivision is in conflict with a memorandum of
37 understanding that is current and in effect on January 15, 2011,
38 the memorandum of understanding shall be controlling while it
39 remains in effect. Upon expiration of the memorandum of
40 understanding that is in effect and current on January 15, 2011,

1 this section shall be controlling and may not be superseded by a
2 subsequent memorandum of understanding.

3 (j) This section does not apply to:

4 (1) Former state or California State University employees
5 employed before January 15, 2011, who return to state or university
6 employment on or after January 15, 2011, and who were not
7 previously subject to this section.

8 (2) State employees hired prior to January 15, 2011, who were
9 subject to Section 20281.5 during the first 24 months of state
10 employment, and who were not previously subject to this section.

11 (3) State or California State University employees on an
12 approved leave of absence before January 15, 2011, who return to
13 active employment on or after January 15, 2011, and who were
14 not previously subject to this section.

15 (4) State employees who are subject to Section 21369.2 so long
16 as their memorandum of understanding is in effect. Upon expiration
17 of the memorandum of understanding, notwithstanding Section
18 3517.8, this section shall be controlling and may not be superseded
19 by a subsequent memorandum of understanding.

20 ~~SEC. 146.~~

21 *SEC. 141.* Section 21369.1 of the Government Code is amended
22 to read:

23 21369.1. (a) The combined current and prior service pensions
24 for state safety members subject to this section with respect to state
25 safety service that is subject to this section is a pension derived
26 from the contributions of the employer sufficient when added to
27 the service retirement annuity that is derived from the accumulated
28 normal contributions of the state safety member at the date of his
29 or her retirement to equal the fraction of one-fiftieth of his or her
30 final compensation set forth opposite his or her age at retirement
31 taken to the preceding completed quarter year, in the following
32 table, multiplied by the number of years of state safety service
33 subject to this section with which he or she is credited at retirement.

| Age at | Retirement | Fraction |
|--------|------------|----------|
| 35 | 50 | 0.8500 |
| 36 | 50¼ | 0.8625 |
| 37 | 50½ | 0.8750 |
| 38 | 50¾ | 0.8875 |
| 39 | | |
| 40 | | |

| | | |
|----|-------------------|--------|
| 1 | 51 | 0.9000 |
| 2 | 51¼ | 0.9125 |
| 3 | 51½ | 0.9250 |
| 4 | 51¾ | 0.9375 |
| 5 | 52 | 0.9500 |
| 6 | 52¼ | 0.9625 |
| 7 | 52½ | 0.9750 |
| 8 | 52¾ | 0.9875 |
| 9 | 53 | 1.0000 |
| 10 | 53¼ | 1.0320 |
| 11 | 53½ | 1.0630 |
| 12 | 53¾ | 1.0940 |
| 13 | 54 | 1.1250 |
| 14 | 54¼ | 1.1570 |
| 15 | 54½ | 1.1880 |
| 16 | 54¾ | 1.2190 |
| 17 | 55 and over | 1.2500 |

18

19 (b) For state safety members with respect to service for all state
20 employers under this section, the benefit shall not exceed 80
21 percent of final compensation. If the pension relates to service to
22 more than one employer, and would otherwise exceed that
23 maximum, the pension payable with respect to each employer shall
24 be reduced in the same proportion as the allowance based on
25 service to that employer bears to the total allowance computed as
26 though there were no limit, so that the total of the pensions shall
27 equal the maximum.

28 (c) This section shall supersede Section 21369 for state safety
29 members with respect to service rendered for the California State
30 University.

31 (d) This section shall also supersede Section 21369 for state
32 safety members, for service not subject to subdivision (c), who are
33 employed by the state on or after January 1, 2000.

34 (e) The Legislature reserves, with respect to any member subject
35 to this section, the right to provide for the adjustment of industrial
36 disability retirement allowances because of earnings of a retired
37 person and modification of the conditions and qualifications
38 required for retirement for disability as it may find appropriate
39 because of the earlier age of service retirement made possible by
40 the benefits under this section.

1 (f) The Legislature reserves the right to subsequently modify
2 or amend this part in order to completely effectuate the intent and
3 purposes of this section and the right to not provide any new
4 comparable advantages if disadvantages to employees result from
5 any modification or amendment.

6 (g) Operation and application of this section are subject to the
7 limitations set forth in Section 21251.13.

8 (h) Notwithstanding any other provision of this section, this
9 section shall not apply to a state safety member who is employed
10 by the state for the first time and becomes a state safety member
11 of the system on or after the first day of the pay period following
12 the effective date of the act adding this subdivision, and is
13 represented by State Bargaining Unit 12, 16, 18, or 19. With respect
14 to related state safety members in managerial, supervisory, or
15 confidential positions and officers or employees of the executive
16 branch of state government who are not members of the civil
17 service, the Director of Human Resources may exercise his or her
18 discretion whether to approve their status in writing to the board.

19 (i) (1) Notwithstanding Section 3517.8, or any provision of an
20 expired memorandum of understanding, or any other provision of
21 this section, this section shall not apply to a state safety member
22 who is employed by the state or the California State University
23 for the first time and becomes a state safety member of the system
24 on or after January 15, 2011. With respect to related state safety
25 members in managerial, supervisory, or confidential positions and
26 officers or employees of the executive branch of state government
27 who are not members of the civil service, the Director of Human
28 Resources may exercise his or her discretion whether to approve
29 their status in writing to the board.

30 (2) If this subdivision is in conflict with a memorandum of
31 understanding that is current and in effect on January 15, 2011,
32 the memorandum of understanding shall be controlling while it
33 remains in effect. Upon expiration of the memorandum of
34 understanding that is in effect and current on January 15, 2011,
35 this section shall be controlling and may not be superseded by a
36 subsequent memorandum of understanding.

37 ~~SEC. 147.~~

38 *SEC. 142.* Section 21369.2 of the Government Code, as
39 amended by Section 128 of Chapter 296 of the Statutes of 2011,
40 is repealed.

~~SEC. 148.~~

SEC. 143. Section 21369.2 of the Government Code, as amended by Section 129 of Chapter 296 of the Statutes of 2011, is amended to read:

21369.2. (a) The combined prior and current service pension for a state safety member, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety service, that is credited to him or her as a state safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

| Age at Retirement | Fraction |
|------------------------|----------|
| 50 | 0.713 |
| 50 $\frac{1}{4}$ | 0.725 |
| 50 $\frac{1}{2}$ | 0.737 |
| 50 $\frac{3}{4}$ | 0.749 |
| 51 | 0.761 |
| 51 $\frac{1}{4}$ | 0.775 |
| 51 $\frac{1}{2}$ | 0.788 |
| 51 $\frac{3}{4}$ | 0.801 |
| 52 | 0.814 |
| 52 $\frac{1}{4}$ | 0.828 |
| 52 $\frac{1}{2}$ | 0.843 |
| 52 $\frac{3}{4}$ | 0.857 |
| 53 | 0.871 |
| 53 $\frac{1}{4}$ | 0.886 |
| 53 $\frac{1}{2}$ | 0.902 |
| 53 $\frac{3}{4}$ | 0.917 |
| 54 | 0.933 |
| 54 $\frac{1}{4}$ | 0.950 |
| 54 $\frac{1}{2}$ | 0.966 |

| | | |
|----|-------------------|--------|
| 1 | 54¾..... | 0.983 |
| 2 | 55 | 1.0000 |
| 3 | 55¼..... | 1.0125 |
| 4 | 55½..... | 1.0250 |
| 5 | 55¾..... | 1.0375 |
| 6 | 56 | 1.0500 |
| 7 | 56¼..... | 1.0625 |
| 8 | 56½..... | 1.0750 |
| 9 | 56¾..... | 1.0875 |
| 10 | 57 | 1.1000 |
| 11 | 57¼..... | 1.1125 |
| 12 | 57½..... | 1.1250 |
| 13 | 57¾..... | 1.1375 |
| 14 | 58 | 1.1500 |
| 15 | 58¼..... | 1.1625 |
| 16 | 58½..... | 1.1750 |
| 17 | 58¾..... | 1.1875 |
| 18 | 59 | 1.2000 |
| 19 | 59¼..... | 1.2125 |
| 20 | 59½..... | 1.2250 |
| 21 | 59¾..... | 1.2375 |
| 22 | 60 and over | 1.2500 |

23
 24 (c) In no event shall the total pension for all service under this
 25 section exceed an amount that, when added to the service retirement
 26 annuity related to that service, equals 80 percent of final
 27 compensation. If the pension relates to service to more than one
 28 employer and would otherwise exceed that maximum, the pension
 29 payable with respect to each employer shall be reduced in the same
 30 proportion as the allowance based on service to that employer
 31 bears to the total allowance computed as though there were no
 32 limit, so that the total of those pensions shall equal the maximum.
 33 Where a state member has service under this section with both
 34 state and local agency employers, the higher maximum shall apply
 35 and the additional benefit shall be funded by increasing the
 36 member's pension payable with respect to the employer for whom
 37 the member performed the service subject to the higher maximum.

38 (d) The Legislature reserves, with respect to any member subject
 39 to this section, the right to provide for the adjustment of industrial
 40 disability retirement allowances because of earnings of a retired

1 person and modification of the conditions and qualifications
2 required for retirement for disability as it may find appropriate
3 because of the earlier age of service retirement made possible by
4 the benefits under this section.

5 (e) This section shall apply to a state safety member who is
6 employed by the state for the first time and becomes a state safety
7 member of the system on or after the first day of the pay period
8 following the effective date of this section, and is represented by
9 State Bargaining Unit 12, 16, 18, or 19. With respect to related
10 state safety members in managerial, supervisory, or confidential
11 positions and officers or employees of the executive branch of
12 state government who are not members of the civil service, the
13 Director of Human Resources may exercise his or her discretion
14 whether to approve their status in writing to the board.

15 (f) This section does not apply to:

16 (1) Former state employees previously employed before the
17 first day of the pay period following the effective date of this
18 subdivision, who return to state employment on or after the first
19 day of the pay period following the effective date of this
20 subdivision.

21 (2) State employees hired prior to the first day of the pay period
22 following the effective date of this subdivision, who were subject
23 to Section 20281.5 during the first 24 months of state employment.

24 (3) State employees hired prior to the first day of the pay period
25 following the effective date of this subdivision, who become
26 subject to representation by State Bargaining Unit 12, 16, 18, or
27 19 on or after the first day of the pay period following the effective
28 date of this subdivision.

29 (4) State employees on an approved leave of absence employed
30 before the first day of the pay period following the effective date
31 of this subdivision, who return to active employment on or after
32 the first day of the pay period following the effective date of this
33 subdivision.

34 ~~SEC. 149.~~

35 *SEC. 144.* Section 21410 of the Government Code is amended
36 to read:

37 21410. Notwithstanding Sections 21406, 21407, 21408, 21409,
38 and 21411, any state member who becomes subject to Section
39 21159 on or after January 1, 1993, and retires for industrial
40 disability because of incapacity for the performance of duties in

1 any employment with the state employer, as determined by the
2 Department of Human Resources, shall receive a disability
3 retirement allowance of 60 percent of the member's final
4 compensation plus an annuity purchased with the member's
5 accumulated additional contributions, if any, or, if qualified for
6 service retirement, the member shall receive the service retirement
7 allowance if the allowance, after deducting the annuity, is greater.

8 Benefits payable under this section are payable solely to state
9 members employed in state bargaining units subject to Section
10 21159.

11 ~~SEC. 150.~~

12 *SEC. 145.* Section 21465 of the Government Code is amended
13 to read:

14 21465. (a) Optional settlement 5 consists of a partial
15 distribution of the actuarial present value of the portion, as
16 specified in this section, of the member's unmodified monthly
17 allowance, as prescribed in Section 21362, 21362.2, 21363,
18 21363.1, 21363.4, or 21423, when a service retirement allowance
19 is payable. The actuarial present value shall be based upon the
20 investment return and postretirement mortality assumptions adopted
21 by the board for that purpose. The member may elect to receive
22 the actuarial present value of no less than 20 percent and no more
23 than 50 percent of his or her unmodified allowance. The member
24 may elect to receive the remaining portion of the unmodified
25 allowance, not distributed as a lump-sum payment, under one of
26 the settlements specified in this article for the remainder of his or
27 her lifetime and thereafter to his or her designated beneficiary,
28 unless this amount is solely limited to the survivor continuance
29 portion. The portion of the unmodified allowance equivalent to
30 the survivor continuance pursuant to Section 21624 may not be
31 distributed as a lump-sum payment. The benefits provided under
32 this section may not exceed the benefits that would have otherwise
33 been provided under any other section in this article.

34 (b) This section shall only apply to the following members who
35 retire on or after January 1, 1999:

36 (1) State peace officer/firefighter members in State Bargaining
37 Unit 6.

38 (2) State peace officer/firefighter members in State Bargaining
39 Unit 8 and state patrol members in State Bargaining Unit 5, if a
40 memorandum of understanding has been agreed upon by the state

1 and the recognized employee organization to become subject to
2 this section.

3 (3) This section shall also apply to state peace officer/firefighter
4 members and state patrol members in related supervisory and
5 confidential positions, if the Department of Human Resources has
6 approved their inclusion.

7 ~~SEC. 151.~~

8 *SEC. 146.* Section 21672 of the Government Code is amended
9 to read:

10 21672. A tax-preferred retirement savings program may include
11 one or more of the following components:

12 (a) Investment fund options for participants, as part of the
13 deferred compensation program administered for state employees
14 by the Department of Human Resources.

15 (b) Investment fund options for other participants.

16 (c) Annuity contracts on behalf of all participants.

17 (d) Asset management, administrative, or related services.

18 ~~SEC. 152.~~

19 *SEC. 147.* Section 21674 of the Government Code is amended
20 to read:

21 21674. (a) Investment fund options under subdivision (a) of
22 Section 21672 shall be provided through a written interagency
23 agreement between the board and the Department of Human
24 Resources.

25 (b) Except for investments made pursuant to subdivision (a),
26 participating employers shall enter into a written contractual
27 agreement with the board.

28 (c) Participants shall enter into contractual agreements that are
29 required to effectuate participation in a tax-preferred retirement
30 savings program, including employees participating under a
31 program described in subdivision (a) or (b) of Section 21671, or
32 any other program that provides for the deferral of compensation
33 program or written salary reduction agreements with their
34 employers, for the purpose of making deferrals or for annuity
35 contracts.

36 ~~SEC. 153.~~

37 *SEC. 148.* Section 22808 of the Government Code is amended
38 to read:

39 22808. An employee enrolled in a health benefit plan under
40 this part shall be entitled to have his or her coverage and the

1 coverage of any family members continued for the duration of a
2 leave of absence, upon his or her application and upon assuming
3 payments of the contributions otherwise required of the employer,
4 if any of the following apply:

5 (a) A leave of absence is granted to the employee without pay
6 under the State Civil Service Act and the rules or regulations of
7 the Department of Human Resources, or other comparable leave.

8 (b) The employee is laid off and has not yet obtained other
9 employment, for a period of up to one year.

10 (c) The employee is employed by the California State University
11 and is granted a leave of absence for more than half-time.

12 ~~SEC. 154.~~

13 *SEC. 149.* Section 22811 of the Government Code is amended
14 to read:

15 22811. Notwithstanding any other provision of this part, a
16 former Member of the Legislature who has served six or more
17 years as a Member of the Legislature may elect, within 60 days
18 after permanent separation from state service, to enroll or continue
19 enrollment in a health benefit plan and dental care plan provided
20 to annuitants. Upon that election, the former member shall pay the
21 total premiums related to that coverage and an additional 2 percent
22 thereof for the administrative costs incurred by the board and the
23 Department of Human Resources in administering this section.

24 The health and dental benefits shall be provided without
25 discrimination as to premium rates or benefits coverage. A person
26 who subsequently terminates his or her coverage under this section
27 may not reenroll pursuant to this section.

28 ~~SEC. 155.~~

29 *SEC. 150.* Section 22814 of the Government Code is amended
30 to read:

31 22814. (a) A judge who retires pursuant to Chapter 11
32 (commencing with Section 75000) of Title 8, but is not yet
33 receiving a pension, may continue his or her coverage and the
34 coverage of any family members for the duration of the leave of
35 absence, upon his or her application and upon assuming payment
36 of the contributions otherwise required of the employer.

37 (b) (1) A judge who leaves judicial office pursuant to
38 subdivision (b) of Section 75521 and has not attained 65 years of
39 age may continue his or her coverage and the coverage of any
40 family members upon assuming payment of the contributions

1 otherwise required of the employer. The judge shall also pay an
2 additional 2 percent of the premium amount to cover administrative
3 expenses incurred by the system or the Department of Human
4 Resources.

5 (2) An election to continue coverage under this subdivision shall
6 be made within 60 days of permanent separation. A retired judge
7 who cancels that coverage may not reenroll.

8 (3) Upon attaining 65 years of age, a retired judge who has
9 continuous and uninterrupted coverage pursuant to this subdivision
10 shall be entitled to the applicable employer contribution.

11 ~~SEC. 156.~~

12 *SEC. 151.* Section 22815 of the Government Code is amended
13 to read:

14 22815. (a) The following persons are eligible for enrollment
15 as provided in this section:

16 (1) A Member of the Legislature or an elective officer of the
17 state whose office is provided by the California Constitution who
18 meets all of the following conditions:

19 (A) Has at least eight years of credited service.

20 (B) Permanently separates from state service on or after January
21 1, 1988, and more than 10 years before his or her minimum age
22 for service retirement, or is an inactive member of the Legislators'
23 Retirement System pursuant to Section 9355.2.

24 (C) Elects to remain a member of a state retirement system
25 supported in whole or in part by state funds, other than the
26 University of California Retirement System.

27 (2) An exempt employee who meets all of the following
28 conditions:

29 (A) Has at least 10 years of credited state service that includes
30 at least two years of credited service while an exempt employee.

31 (B) Permanently separates from state service on or after January
32 1, 1988, and more than 10 years before his or her minimum age
33 for service retirement.

34 (C) Elects to remain a member of a state retirement system
35 supported in whole or in part by state funds, other than the
36 University of California Retirement System.

37 (b) During the period he or she is not yet receiving a retirement
38 allowance, a person described by subdivision (a) may continue
39 enrollment in a health benefit plan or dental care plan without
40 discrimination as to premium rates or benefit coverage, upon

1 assuming payment of the contributions otherwise required of the
2 former employer on account of his or her enrollment and the
3 employee contribution. The person shall also pay an additional 2
4 percent of the premium amount to cover administrative expenses
5 incurred by the system or the Department of Human Resources.
6 An election to continue coverage under this section shall be made
7 within 60 days of permanent separation.

8 (c) A person who receives coverage pursuant to this subdivision,
9 and subsequently terminates that coverage, may not be allowed to
10 reenroll and may not enroll as an annuitant pursuant to subdivision
11 (d).

12 (d) Upon retirement and receipt of a retirement allowance, a
13 person described in subdivision (b) may elect to continue
14 enrollment in a health benefit plan or dental care plan without
15 discrimination as to premium rates or benefit coverage, at which
16 time the state shall assume payment of the employer contribution
17 and the person shall thereafter be deemed an annuitant.

18 (e) The board has no duty to locate or notify any person who
19 may be eligible to enroll pursuant to this section.

20 ~~SEC. 157.~~

21 *SEC. 152.* Section 22816 of the Government Code is amended
22 to read:

23 22816. (a) A person who meets all of the criteria of an
24 annuitant, as defined in subdivision (f) or (g) of Section 22760,
25 other than the condition of receiving a retirement allowance under
26 a retirement system supported in whole or in part by state funds,
27 may continue enrollment in a health benefit plan or dental care
28 plan provided to annuitants without discrimination as to premium
29 rates or benefits coverage, upon assuming payment of the
30 contributions otherwise required of the former employer on account
31 of his or her enrollment and the employee contribution. The person
32 shall also pay an additional 2 percent of the premium amount to
33 cover administrative expenses incurred by the system or the
34 Department of Human Resources. An election to continue coverage
35 under this section shall be made within 60 days of permanent
36 separation.

37 (b) A person who receives coverage pursuant to this subdivision
38 who subsequently terminates that coverage may not reenroll.
39 However, termination under this subdivision does not affect an

annuitant's rights under Section 22817. The benefits authorized by Section 22817 and this section are separate and distinct benefits.

(c) The board has no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

~~SEC. 158.~~

SEC. 153. Section 22850 of the Government Code is amended to read:

22850. (a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer self-funded or minimum premium health benefit plans.

(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Human Resources, may request proposals from carriers and certified public employee representatives.

(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may offer health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part. The governing body of a contracting agency may elect, upon filing a resolution with the board, to provide those health benefit plans to its employees and annuitants. The resolution shall be subject to mutual agreement between the contracting agency and the recognized employee organization, if any.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

~~SEC. 159.~~

SEC. 154. Section 22865 of the Government Code is amended to read:

22865. Prior to the approval of proposed benefits and premium readjustments authorized under Section 22864, the board shall notify the Legislature, the Trustees of the California State University, and the Department of Human Resources of the proposed changes in writing.

~~SEC. 160.~~

SEC. 155. Section 22871.5 of the Government Code is amended to read:

22871.5. (a) Notwithstanding Section 22871, the employer contribution with respect to each excluded employee, as defined by subdivision (b) of Section 3527, who is otherwise eligible shall

1 be determined by the Department of Human Resources subject to
2 the appropriation of funds by the Legislature.

3 (b) Notwithstanding Section 22871, the employer contribution
4 with respect to each state employee, as defined by subdivision (c)
5 of Section 3513, who is otherwise eligible shall be determined
6 through the collective bargaining process subject to the
7 appropriation of funds by the Legislature.

8 ~~SEC. 161.~~

9 *SEC. 156.* Section 22944.3 of the Government Code is amended
10 to read:

11 22944.3. (a) Any amount that would otherwise be used to
12 permanently increase compensation pursuant to Section 19827,
13 effective on July 1, 2009, and on July 1, 2010, shall instead be
14 used to permanently prefund postemployment health care benefits
15 for patrol members. The amount used to prefund benefits relative
16 to any increases under the survey methodology effective July 1,
17 2010, shall not exceed 2 percent. The state shall take credit for
18 these prefunding contributions in the survey methodology
19 established in Section 19827 in the same manner as it would for
20 an increase to the base salary for patrol members.

21 (b) Patrol members shall contribute an additional 0.5 percent
22 of base pay toward prefunding retiree health benefit obligations
23 effective on the first day of the pay period following the effective
24 date of the act adding this section and the ratification of the
25 addendum by the members of State Bargaining Unit 5. This
26 contribution shall not reduce the base salary of patrol members
27 under the survey methodology established by Section 19827.

28 (c) Effective July 1, 2012, the state shall contribute toward
29 prefunding retiree health benefits, on a prospective basis, an
30 amount at least equal to the combined contribution rate established
31 pursuant to subdivisions (a) and (b). These contributions may be
32 used in the survey methodology established by Section 19827 if
33 mutually agreed in a memorandum of understanding.

34 (d) Contributions paid pursuant to this section shall be used
35 exclusively for the cost of providing postemployment health care
36 to eligible enrolled patrol member annuitants and their eligible
37 enrolled dependents, beneficiaries, and survivors.

38 (e) Contributions paid pursuant to this section shall not be
39 refundable under any circumstances to a patrol member or his or
40 her beneficiary or survivor.

1 (f) Any amount used to prefund postemployment health care
2 for patrol members pursuant to subdivision (a) shall not be included
3 in any calculation for benefits using final compensation.

4 (g) If the provisions of this section are in conflict with the
5 provisions of a memorandum of understanding reached pursuant
6 to Section 3517.5, the memorandum of understanding shall be
7 controlling without further legislative action, except that if those
8 provisions of a memorandum of understanding require the
9 expenditure of funds, the provisions shall not become effective
10 unless approved by the Legislature in the annual Budget Act.

11 (h) For purposes of this section, “patrol member” has the same
12 meaning as in Section 20390. This section shall not apply to an
13 employee of a county.

14 (i) The Director of Human Resources may exercise his or her
15 discretion to apply the provisions of this section to patrol members
16 who are excepted from the definition of “state employee” in
17 subdivision (c) of Section 3513, and an officer or employee of the
18 executive branch of state government who is not a member of the
19 civil service.

20 ~~SEC. 162.~~

21 *SEC. 157.* Section 22953 of the Government Code is amended
22 to read:

23 22953. (a) The state, through the Department of Human
24 Resources, the Trustees of the California State University, or the
25 Regents of the University of California may contract, upon
26 negotiations with employee organizations, with carriers for dental
27 care plans for employees, annuitants, and eligible family members,
28 provided the carriers have operated successfully in the area of
29 dental care benefits for a reasonable period or have a contract to
30 provide a health benefit plan pursuant to Section 22850. The dental
31 care plans may include a portion of the monthly premium to be
32 paid by the employee or annuitant. Dental care plans provided
33 under this authority may be self-funded by the employer if it is
34 determined to be cost effective.

35 (b) An employee or annuitant may enroll in a dental care plan
36 provided by a carrier that also provides a health benefit plan
37 pursuant to Section 22850 if the employee or annuitant is also
38 enrolled in the health benefit plan provided by that carrier.
39 However, nothing in this section may be construed to require an

1 employee or annuitant to enroll in a dental care plan and a health
2 benefit plan provided by the same carrier.

3 (c) No contract for a dental care plan may be entered into unless
4 funds are appropriated by the Legislature in a subsequently enacted
5 statute. If a dental care plan is self-funded, funds used for that plan
6 shall be considered continuously appropriated, notwithstanding
7 Section 13340.

8 ~~SEC. 163.~~

9 *SEC. 158.* Section 22954 of the Government Code is amended
10 to read:

11 22954. Funds appropriated for self-funded dental care plans
12 for state employees, other than employees of the California State
13 University, shall be maintained in the State Employees' Dental
14 Care Fund which is hereby created in the State Treasury. Moneys
15 in this fund shall be used by the Department of Human Resources
16 to pay dental claims and other administrative costs. Income earned
17 on the moneys in the State Employees' Dental Care Fund shall be
18 credited to the fund. Moneys in this fund are continuously
19 appropriated in accordance with this section and Section 22953.

20 ~~SEC. 164.~~

21 *SEC. 159.* Section 22959 of the Government Code is amended
22 to read:

23 22959. The Department of Human Resources shall administer
24 the benefits provided by this part for civil service employees and
25 annuitants. The Trustees of the California State University shall
26 administer the benefits provided by this part for employees and
27 annuitants of the California State University.

28 ~~SEC. 165.~~

29 *SEC. 160.* Section 22959.2 of the Government Code is amended
30 to read:

31 22959.2. The Vision Care Program for State Annuitants shall
32 be administered by the Department of Human Resources.

33 ~~SEC. 166.~~

34 *SEC. 161.* Section 22959.4 of the Government Code is amended
35 to read:

36 22959.4. (a) An annuitant who retires from the state may enroll
37 in a vision care plan offered under this part, if any of the following
38 apply:

1 (1) The annuitant was enrolled in a health benefit plan, a dental
2 care plan, or vision care plan at the time of separation for
3 retirement, and retired within 120 days of the date of separation.

4 (2) The annuitant was not enrolled in a health benefit plan, a
5 dental care plan, or vision care plan at the time of separation for
6 retirement, but was eligible for enrollment as an employee at the
7 time of separation for retirement, and retired within 120 days of
8 the date of separation.

9 (3) The annuitant is part of the Legislators' Retirement System
10 receiving an allowance pursuant to Article 6 (commencing with
11 Section 9359) of Chapter 3.5 of Part 1 of Division 2.

12 (b) The Department of Human Resources has no duty to locate
13 or notify any annuitant who may be eligible to enroll, or to provide
14 names or addresses to any person, agency, or entity for the purpose
15 of notifying those annuitants.

16 ~~SEC. 167.~~

17 *SEC. 162.* Section 22959.6 of the Government Code is amended
18 to read:

19 22959.6. (a) The Department of Human Resources may
20 contract with one or more vision care plans for annuitants and
21 eligible family members, provided the carrier or carriers have
22 operated successfully in the area of vision care benefits for a
23 reasonable period, as determined by the Department of Human
24 Resources.

25 (b) The Department of Human Resources, as the program
26 administrator, has full administrative authority over this program
27 and associated funds and shall require the monthly premium to be
28 paid by the annuitant for the vision care plan. The premium to be
29 paid by the annuitant shall be deducted from his or her monthly
30 allowance. If there are insufficient funds in an annuitant's
31 allowance to pay the premium, the plan provider shall directly bill
32 the annuitant. A vision care plan or plans provided under this
33 authority shall be funded by the annuitants' premium. All premiums
34 received from annuitants shall be deposited in the Vision Care
35 Program for State Annuitants Fund, which is hereby created in the
36 State Treasury. Any income earned on the moneys in the Vision
37 Care Program for State Annuitants Fund shall be credited to the
38 fund. Notwithstanding Section 13340, moneys in the fund are
39 continuously appropriated for the purposes specified in subdivision
40 (d).

(c) An annuitant may enroll in a vision care plan provided by a carrier that also provides a health benefit plan pursuant to Section 22850 if the employee or annuitant is also enrolled in the health benefit plan provided by that carrier. However, nothing in this section may be construed to require an annuitant to enroll in a vision care plan and a health benefit plan provided by the same carrier. An annuitant enrolled in this program shall only enroll into a vision plan or vision plans contracted for by the Department of Human Resources.

(d) No contract for a vision care plan may be entered into unless the Department of Human Resources determines it is reasonable to do so. Notwithstanding any other provision of law, any premium moneys paid into this program by annuitants for the purposes of the annuitant vision care plan that is contracted for shall be used for the cost of providing vision care benefits to eligible, enrolled annuitants and their eligible and enrolled dependents, the payment of claims for those vision benefits, and the cost of administration of the vision care plan or plans under this vision care program, those costs being determined by the Department of Human Resources.

(e) If the Director of Human Resources determines that it is not economically feasible to continue this program anytime after its commencement, the director may, upon written notice to enrollees and to the contracting plan or plans, terminate this program within a reasonable time. The notice of termination to the plan or plans shall be determined by the Department of Human Resources. The notice to enrollees of the termination of the program shall commence no later than three months prior to the actual date of termination of the program.

(f) Premium rates for this program shall be determined by the Department of Human Resources in conjunction with the contracted plan or plans and shall be considered separate and apart from active employee premium rates.

(g) The director shall report to the Legislature, prior to the end of the second quarter of the third plan year, on the continued economic sustainability of the Vision Care Program for State Annuitants.

~~SEC. 168.~~

SEC. 163. Section 22960 of the Government Code is amended to read:

1 22960. (a) The State Peace Officers' and Firefighters' Defined
2 Contribution Plan is hereby established for state peace officer and
3 firefighter members in Bargaining Unit 6 who have become subject
4 to this part by memorandum of understanding, as provided by
5 Section 3517.5.

6 (b) The plan may also be provided to state peace officers or
7 firefighters who are either excluded from the definition of state
8 employee in subdivision (c) of Section 3513, or are nonelected
9 officers or employees of the executive branch of government and
10 are not members of the civil service, and who supervise employees
11 in a bargaining unit that is subject to this part, provided that the
12 Department of Human Resources has approved their inclusion for
13 coverage under this part.

14 ~~SEC. 169.~~

15 *SEC. 164.* Section 22960.35 of the Government Code is
16 amended to read:

17 22960.35. (a) Except as provided in this part, the plan shall
18 be administered by the board in conformity with its powers and
19 duties for administration of the system as set forth in Part 3
20 (commencing with Section 20000). The board shall, to the extent
21 that it determines feasible, follow the procedures set forth in Article
22 7 (commencing with Section 20220) of Chapter 2 of Part 3.

23 (b) The board may retain a third-party administrator to perform
24 recordkeeping, customer service or other plan administration
25 services.

26 (c) The board shall notify the Department of Human Resources
27 when it is prepared to implement the plan.

28 ~~SEC. 170.~~

29 *SEC. 165.* Section 22960.60 of the Government Code is
30 amended to read:

31 22960.60. (a) Employer and employee contribution rates may
32 be determined by the terms of the memorandum of understanding
33 applicable to each plan participant and the employer in accordance
34 with the requirements of this section.

35 (b) Through the Department of Human Resources, the employer
36 shall provide the board with a true and correct copy of each
37 memorandum of understanding applicable to plan participants.
38 The board may prescribe procedures for the orderly transmittal
39 and receipt of these documents.

1 (c) Except as provided in subdivision (e), after receipt of an
2 applicable memorandum of understanding that sets forth an
3 employer contribution rate and any employee contribution rate,
4 the board shall, in accordance with Section 22960.36, amend the
5 plan to provide for the employer contribution rate and any
6 employee contribution rate set forth in the memorandum of
7 understanding.

8 (d) The employer contribution rate and any employee
9 contribution rate for state peace officers and firefighters who have
10 become subject to this part pursuant to the provisions of subdivision
11 (b) of Section 22960 shall be the contribution rate or rates set forth
12 in the memorandum of understanding for state peace officers and
13 firefighter members in Bargaining Unit 6.

14 (e) The board may refuse to amend the plan under this section
15 if, in the board's considered judgment, the proposed amendment
16 would violate any applicable provision of Title 26 of the United
17 States Code.

18 (f) The initial employer contribution rate shall be prescribed in
19 the memorandum of understanding. In the event an MOU expires
20 and no new memorandums of understanding takes effect, the last
21 memorandums of understanding in place shall control.

22 ~~SEC. 171.~~

23 *SEC. 166.* Section 22960.100 of the Government Code is
24 amended to read:

25 22960.100. (a) Notwithstanding any other provision of law,
26 the plan established by this part shall also apply to state peace
27 officer and firefighter members in State Bargaining Unit 8 who
28 have become subject to this part by a memorandum of
29 understanding, as provided in Section 3517.5.

30 (b) The plan may also be provided to state peace officers or
31 firefighters who are either excluded from the definition of state
32 employee in subdivision (c) of Section 3513, or are nonelected
33 officers or employees of the executive branch of government and
34 are not members of the civil service, and who supervise employees
35 in a bargaining unit that is subject to this part, provided that the
36 Department of Human Resources has approved their inclusion for
37 coverage under this part.

38 ~~SEC. 172.~~

39 *SEC. 167.* Section 68203 of the Government Code is amended
40 to read:

68203. (a) On July 1, 1980, and on July 1 of each year thereafter, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall be increased by the amount that is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California state employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.

(b) For the purposes of this section, salary increases for state employees shall be those increases as reported by the Department of Human Resources.

(c) The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall in no case exceed 5 percent.

(d) On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2000, by 8 ½ percent.

(e) On January 1, 2007, the salary of the justices and judges identified in Sections 68200 to 68202, inclusive, and 68203.1 shall also be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2006, by 8.5 percent.

~~SEC. 173.~~

SEC. 168. Section 77601 of the Government Code is amended to read:

77601. The task force shall be comprised of the following members:

(a) Four representatives of trial courts, appointed by the Chief Justice, representing two urban, one suburban, and one rural courts.

(b) Four representatives of counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties, representing urban, suburban, and rural counties.

(c) Three representatives appointed by the Senate Rules Committee, at least two of whom shall represent trial court employee organizations.

1 (d) Three representatives appointed by the Speaker of the
2 Assembly, at least two of whom shall represent trial court employee
3 organizations.

4 (e) The Director of Human Resources or his or her
5 representative.

6 (f) The Chief Executive Officer of PERS or his or her
7 representative.

8 (g) The Director of Finance or his or her representative.

9 (h) The Chief Justice shall designate a justice of the court of
10 appeal as nonvoting chairperson.

11 ~~SEC. 174.~~

12 *SEC. 169.* Section 77602 of the Government Code is amended
13 to read:

14 77602. The Judicial Council shall provide staff support for the
15 task force and shall develop guidelines for procedures and practices
16 for the task force, which shall include input from and approval of
17 the task force. The Department of Human Resources, the
18 Department of Finance, and the Legislative Analyst shall provide
19 additional support, at the request of the Judicial Council. The
20 California State Association of Counties is encouraged to provide
21 additional staff support.

22 ~~SEC. 175.~~

23 *SEC. 170.* Section 100503 of the Government Code is amended
24 to read:

25 100503. In addition to meeting the minimum requirements of
26 Section 1311 of the federal act, the board shall do all of the
27 following:

28 (a) Determine the criteria and process for eligibility, enrollment,
29 and disenrollment of enrollees and potential enrollees in the
30 Exchange and coordinate that process with the state and local
31 government entities administering other health care coverage
32 programs, including the State Department of Health Care Services,
33 the Managed Risk Medical Insurance Board, and California
34 counties, in order to ensure consistent eligibility and enrollment
35 processes and seamless transitions between coverage.

36 (b) Develop processes to coordinate with the county entities
37 that administer eligibility for the Medi-Cal program and the entity
38 that determines eligibility for the Healthy Families Program,
39 including, but not limited to, processes for case transfer, referral,

1 and enrollment in the Exchange of individuals applying for
2 assistance to those entities, if allowed or required by federal law.

3 (c) Determine the minimum requirements a carrier must meet
4 to be considered for participation in the Exchange, and the
5 standards and criteria for selecting qualified health plans to be
6 offered through the Exchange that are in the best interests of
7 qualified individuals and qualified small employers. The board
8 shall consistently and uniformly apply these requirements,
9 standards, and criteria to all carriers. In the course of selectively
10 contracting for health care coverage offered to qualified individuals
11 and qualified small employers through the Exchange, the board
12 shall seek to contract with carriers so as to provide health care
13 coverage choices that offer the optimal combination of choice,
14 value, quality, and service.

15 (d) Provide, in each region of the state, a choice of qualified
16 health plans at each of the five levels of coverage contained in
17 subdivisions (d) and (e) of Section 1302 of the federal act.

18 (e) Require, as a condition of participation in the Exchange,
19 carriers to fairly and affirmatively offer, market, and sell in the
20 Exchange at least one product within each of the five levels of
21 coverage contained in subdivisions (d) and (e) of Section 1302 of
22 the federal act. The board may require carriers to offer additional
23 products within each of those five levels of coverage. This
24 subdivision shall not apply to a carrier that solely offers
25 supplemental coverage in the Exchange under paragraph (10) of
26 subdivision (a) of Section 100504.

27 (f) (1) Require, as a condition of participation in the Exchange,
28 carriers that sell any products outside the Exchange to do both of
29 the following:

30 (A) Fairly and affirmatively offer, market, and sell all products
31 made available to individuals in the Exchange to individuals
32 purchasing coverage outside the Exchange.

33 (B) Fairly and affirmatively offer, market, and sell all products
34 made available to small employers in the Exchange to small
35 employers purchasing coverage outside the Exchange.

36 (2) For purposes of this subdivision, “product” does not include
37 contracts entered into pursuant to Part 6.2 (commencing with
38 Section 12693) of Division 2 of the Insurance Code between the
39 Managed Risk Medical Insurance Board and carriers for enrolled
40 Healthy Families beneficiaries or contracts entered into pursuant

1 to Chapter 7 (commencing with Section 14000) of, or Chapter 8
2 (commencing with Section 14200) of, Part 3 of Division 9 of the
3 Welfare and Institutions Code between the State Department of
4 Health Care Services and carriers for enrolled Medi-Cal
5 beneficiaries.

6 (g) Determine when an enrollee's coverage commences and the
7 extent and scope of coverage.

8 (h) Provide for the processing of applications and the enrollment
9 and disenrollment of enrollees.

10 (i) Determine and approve cost-sharing provisions for qualified
11 health plans.

12 (j) Establish uniform billing and payment policies for qualified
13 health plans offered in the Exchange to ensure consistent
14 enrollment and disenrollment activities for individuals enrolled in
15 the Exchange.

16 (k) Undertake activities necessary to market and publicize the
17 availability of health care coverage and federal subsidies through
18 the Exchange. The board shall also undertake outreach and
19 enrollment activities that seek to assist enrollees and potential
20 enrollees with enrolling and reenrolling in the Exchange in the
21 least burdensome manner, including populations that may
22 experience barriers to enrollment, such as the disabled and those
23 with limited English language proficiency.

24 (l) Select and set performance standards and compensation for
25 navigators selected under subdivision (l) of Section 100502.

26 (m) Employ necessary staff.

27 (1) The board shall hire a chief fiscal officer, a chief operations
28 officer, a director for the SHOP Exchange, a director of Health
29 Plan Contracting, a chief technology and information officer, a
30 general counsel, and other key executive positions, as determined
31 by the board, who shall be exempt from civil service.

32 (2) (A) The board shall set the salaries for the exempt positions
33 described in paragraph (1) and subdivision (i) of Section 100500
34 in amounts that are reasonably necessary to attract and retain
35 individuals of superior qualifications. The salaries shall be
36 published by the board in the board's annual budget. The board's
37 annual budget shall be posted on the Internet Web site of the
38 Exchange. To determine the compensation for these positions, the
39 board shall cause to be conducted, through the use of independent
40 outside advisors, salary surveys of both of the following:

1 (i) Other state and federal health insurance exchanges that are
2 most comparable to the Exchange.

3 (ii) Other relevant labor pools.

4 (B) The salaries established by the board under subparagraph
5 (A) shall not exceed the highest comparable salary for a position
6 of that type, as determined by the surveys conducted pursuant to
7 subparagraph (A).

8 (C) The Department of Human Resources shall review the
9 methodology used in the surveys conducted pursuant to
10 subparagraph (A).

11 (3) The positions described in paragraph (1) and subdivision (i)
12 of Section 100500 shall not be subject to otherwise applicable
13 provisions of the Government Code or the Public Contract Code
14 and, for those purposes, the Exchange shall not be considered a
15 state agency or public entity.

16 (n) Assess a charge on the qualified health plans offered by
17 carriers that is reasonable and necessary to support the
18 development, operations, and prudent cash management of the
19 Exchange. This charge shall not affect the requirement under
20 Section 1301 of the federal act that carriers charge the same
21 premium rate for each qualified health plan whether offered inside
22 or outside the Exchange.

23 (o) Authorize expenditures, as necessary, from the California
24 Health Trust Fund to pay program expenses to administer the
25 Exchange.

26 (p) Keep an accurate accounting of all activities, receipts, and
27 expenditures, and annually submit to the United States Secretary
28 of Health and Human Services a report concerning that accounting.
29 Commencing January 1, 2016, the board shall conduct an annual
30 audit.

31 (q) (1) Annually prepare a written report on the implementation
32 and performance of the Exchange functions during the preceding
33 fiscal year, including, at a minimum, the manner in which funds
34 were expended and the progress toward, and the achievement of,
35 the requirements of this title. This report shall be transmitted to
36 the Legislature and the Governor and shall be made available to
37 the public on the Internet Web site of the Exchange. A report made
38 to the Legislature pursuant to this subdivision shall be submitted
39 pursuant to Section 9795.

1 (2) In addition to the report described in paragraph (1), the board
2 shall be responsive to requests for additional information from the
3 Legislature, including providing testimony and commenting on
4 proposed state legislation or policy issues. The Legislature finds
5 and declares that activities including, but not limited to, responding
6 to legislative or executive inquiries, tracking and commenting on
7 legislation and regulatory activities, and preparing reports on the
8 implementation of this title and the performance of the Exchange,
9 are necessary state requirements and are distinct from the
10 promotion of legislative or regulatory modifications referred to in
11 subdivision (d) of Section 100520.

12 (r) Maintain enrollment and expenditures to ensure that
13 expenditures do not exceed the amount of revenue in the fund, and
14 if sufficient revenue is not available to pay estimated expenditures,
15 institute appropriate measures to ensure fiscal solvency.

16 (s) Exercise all powers reasonably necessary to carry out and
17 comply with the duties, responsibilities, and requirements of this
18 act and the federal act.

19 (t) Consult with stakeholders relevant to carrying out the
20 activities under this title, including, but not limited to, all of the
21 following:

22 (1) Health care consumers who are enrolled in health plans.

23 (2) Individuals and entities with experience in facilitating
24 enrollment in health plans.

25 (3) Representatives of small businesses and self-employed
26 individuals.

27 (4) The State Medi-Cal Director.

28 (5) Advocates for enrolling hard-to-reach populations.

29 (u) Facilitate the purchase of qualified health plans in the
30 Exchange by qualified individuals and qualified small employers
31 no later than January 1, 2014.

32 (v) Report, or contract with an independent entity to report, to
33 the Legislature by December 1, 2018, on whether to adopt the
34 option in paragraph (3) of subdivision (c) of Section 1312 of the
35 federal act to merge the individual and small employer markets.
36 In its report, the board shall provide information, based on at least
37 two years of data from the Exchange, on the potential impact on
38 rates paid by individuals and by small employers in a merged
39 individual and small employer market, as compared to the rates
40 paid by individuals and small employers if a separate individual

1 and small employer market is maintained. A report made pursuant
2 to this subdivision shall be submitted pursuant to Section 9795.

3 (w) With respect to the SHOP Program, collect premiums and
4 administer all other necessary and related tasks, including, but not
5 limited to, enrollment and plan payment, in order to make the
6 offering of employee plan choice as simple as possible for qualified
7 small employers.

8 (x) Require carriers participating in the Exchange to immediately
9 notify the Exchange, under the terms and conditions established
10 by the board when an individual is or will be enrolled in or
11 disenrolled from any qualified health plan offered by the carrier.

12 (y) Ensure that the Exchange provides oral interpretation
13 services in any language for individuals seeking coverage through
14 the Exchange and makes available a toll-free telephone number
15 for the hearing and speech impaired. The board shall ensure that
16 written information made available by the Exchange is presented
17 in a plainly worded, easily understandable format and made
18 available in prevalent languages.

19 ~~SEC. 176. Section 11755 of the Health and Safety Code is~~
20 ~~amended to read:~~

21 ~~11755. The department shall do all of the following:~~

22 ~~(a) Adopt regulations pursuant to Section 11152 of the~~
23 ~~Government Code.~~

24 ~~(b) Employ administrative, technical, and other personnel as~~
25 ~~may be necessary for the performance of its powers and duties.~~

26 ~~(c) Do or perform any of the acts that may be necessary,~~
27 ~~desirable, or proper to carry out the purpose of this division.~~

28 ~~(d) Provide funds to counties for the planning and~~
29 ~~implementation of local programs to alleviate problems related to~~
30 ~~alcohol and other drug use.~~

31 ~~(e) Review and execute negotiated net amount contracts and~~
32 ~~Drug Medi-Cal contracts, and approve or disapprove county plans~~
33 ~~submitted for state and federal funds allocated by the department.~~

34 ~~(f) Provide for technical assistance and training to local alcohol~~
35 ~~and other drug programs to assist in the planning and~~
36 ~~implementation of quality services. The department may charge~~
37 ~~a fee to cover the cost of providing technical assistance to these~~
38 ~~alcohol and other drug programs.~~

39 ~~(g) Review research in, and serve as a resource to provide~~
40 ~~information relating to, alcohol and other drug programs.~~

1 ~~(h) In cooperation with the Department of Human Resources,~~
2 ~~encourage training in other state agencies to assist the agencies to~~
3 ~~recognize employee problems relating to alcohol and other drug~~
4 ~~use that affects job performance and encourage the employees to~~
5 ~~seek appropriate services.~~

6 ~~(i) Assist and cooperate with the Office of Statewide Health~~
7 ~~Planning and Development and the California Health Policy and~~
8 ~~Data Advisory Commission in the drafting and adoption of the~~
9 ~~state health plan to assure inclusion of appropriate provisions~~
10 ~~relating to alcohol and other drug problems.~~

11 ~~(j) In the same manner and subject to the same conditions as~~
12 ~~other state agencies, develop and submit annually to the~~
13 ~~Department of Finance a program budget for the state-funded~~
14 ~~alcohol and other drug program, which budget shall include~~
15 ~~expenditures proposed to be made under this division, and may~~
16 ~~include expenditures proposed to be made by any other state agency~~
17 ~~relating to alcohol and other drug problems, pursuant to an~~
18 ~~interagency agreement with the department.~~

19 ~~(k) Review and certify alcohol and other drug programs meeting~~
20 ~~state standards pursuant to Chapter 7 (commencing with Section~~
21 ~~11830) and Chapter 13 (commencing with Section 11847) of Part~~
22 ~~2.~~

23 ~~(l) Develop standards for assuring minimal statewide levels of~~
24 ~~service quality provided by alcohol and other drug programs.~~

25 ~~(m) Review and license narcotic treatment programs.~~

26 ~~(n) Develop and implement, in partnership with the counties,~~
27 ~~alcohol and other drug prevention strategies especially designed~~
28 ~~for youth.~~

29 ~~(o) Develop and maintain a centralized alcohol and drug abuse~~
30 ~~indicator data collection system that shall gather and obtain~~
31 ~~information on the status of the alcohol and other drug abuse~~
32 ~~problems in the State of California. This information shall include,~~
33 ~~but not be limited to, all of the following:~~

34 ~~(1) The number and characteristics of persons receiving recovery~~
35 ~~or treatment services from alcohol and other drug programs~~
36 ~~providing publicly funded services or services licensed by the~~
37 ~~department.~~

38 ~~(2) The location and types of services offered by these programs.~~

~~(3) The number of admissions to hospitals on both an emergency room and inpatient basis for treatment related to alcohol and other drugs.~~

~~(4) The number of arrests for alcohol and other drug violations.~~

~~(5) The number of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, commitments for drug violations.~~

~~(6) The number of Department of Corrections and Rehabilitation commitments for drug violations.~~

~~(7) The number or percentage of persons having alcohol or other drug problems as determined by survey information.~~

~~(8) The amounts of illicit drugs confiscated by law enforcement in the state.~~

~~(9) The statewide alcohol and other drug program distribution and the fiscal impact of alcohol and other drug problems upon the state.~~

~~Providers of publicly funded services or services licensed by the department to clients-participants shall report data in a manner, in a format, and under a schedule prescribed by the department.~~

~~(p) Issue an annual report that portrays the drugs abused, populations affected, user characteristics, crime-related costs, socioeconomic costs, and other related information deemed necessary in providing a problem profile of alcohol and other drug abuse in the state.~~

~~(q) (1) Require any individual, public or private organization, or government agency, receiving federal grant funds, to comply with all federal statutes, regulations, guidelines, and terms and conditions of the grants. The failure of the individual, public or private organization, or government agency, to comply with the statutes, regulations, guidelines, and terms and conditions of grants received may result in the department's disallowing noncompliant costs, or the suspension or termination of the contract or grant award allocating the grant funds.~~

~~(2) Adopt regulations implementing this subdivision in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed necessary for the preservation of the public peace, health and safety, or general welfare. Subsequent amendments to the adoption of emergency regulations shall be~~

1 ~~deemed an emergency only if those amendments are adopted in~~
2 ~~direct response to a change in federal statutes, regulations,~~
3 ~~guidelines, or the terms and conditions of federal grants. Nothing~~
4 ~~in this paragraph shall be interpreted as prohibiting the department~~
5 ~~from adopting subsequent amendments on a nonemergency basis~~
6 ~~or as emergency regulations in accordance with the standards set~~
7 ~~forth in Section 11346.1 of the Government Code.~~

8 ~~SEC. 177.~~

9 *SEC. 171.* Section 50909 of the Health and Safety Code is
10 amended to read:

11 50909. (a) Notwithstanding Sections 19816 and 19825 of the
12 Government Code, the compensation of key exempt management,
13 including the executive director, the chief deputy director, the
14 general counsel, the director of financing, the director of
15 homeownership programs, the director of multifamily programs,
16 the director of insurance and the financial risk management director
17 shall be established by the board in the agency's annual budget,
18 in amounts which are reasonably necessary, in the discretion of
19 the board, to attract and hold a person of superior qualifications.

20 (b) (1) To determine the compensation for the positions
21 described in this section, the board shall cause to be conducted,
22 through the use of independent outside advisors, salary surveys of
23 both of the following:

24 (A) Other state and local housing finance agencies that are most
25 comparable to CalHFA.

26 (B) Other relevant labor pools.

27 (2) The salaries so set by the board shall not exceed the highest
28 comparable salary for a position of that type, as determined by the
29 survey.

30 (c) The Department of Human Resources shall review the
31 methodology used in these salary surveys.

32 (d) Members of the board shall not receive a salary but shall be
33 entitled to a per diem allowance of one hundred dollars (\$100) for
34 each day's attendance at a meeting of the board or a meeting of a
35 committee of the board, not to exceed three hundred dollars (\$300)
36 in any month, and reimbursement for expenses incurred in the
37 performance of their duties under this part, including travel and
38 other necessary expenses.

1 ~~SEC. 178.~~

2 *SEC. 172.* Section 10203.2 of the Insurance Code is amended
3 to read:

4 10203.2. Life insurance conforming to all the following
5 conditions is another form of group life insurance:

6 (a) Written under a policy covering, when issued, not less than
7 25 employees in eligible classes or positions as designated by the
8 Department of Human Resources pursuant to Section 19849.11 of
9 the Government Code.

10 (b) Written under a policy issued to the State of California
11 through the Department of Human Resources or its designee
12 pursuant to Sections 19849.10 to 19849.12, inclusive, of the
13 Government Code.

14 (c) The premium on the policy is to be paid by the employees
15 alone, by the state alone, or in part by the state with the remainder
16 to be paid by the employees.

17 (d) Insuring only managerial and confidential employees as
18 defined by subdivisions (e) and (f) of Section 3513 of the
19 Government Code, and employees excluded from the definition
20 of state employees in subdivision (c) of Section 3513 of the
21 Government Code.

22 (e) Insuring for amounts of insurance based upon some plan
23 which will preclude individual selection.

24 (f) Insuring for the benefit of persons other than the Department
25 of Human Resources or its designee.

26 (g) Written under a policy insuring, when issued, not less than
27 75 percent of all employees eligible for insurance under the policy,
28 or 75 percent of the employees of any class or position thereof
29 reasonably determined by conditions pertaining to employment or
30 of any established unit thereof not formed for the purpose of
31 procuring insurance. If a group policy is intended to insure several
32 classes, positions, or units, it may be issued as respects the classes,
33 positions, or units of which 75 percent are covered and extended
34 to those other units, classes, or positions of which 75 percent
35 express the desire to be covered. In this case, when the employees
36 apply and pay for additional amounts of insurance, a smaller
37 percentage of employees may be insured for the additional amounts
38 of insurance. If any employee fails to become insured under an
39 existing policy when he or she becomes eligible and later wishes
40 to become insured thereunder, the insurer may require satisfactory

1 evidence of insurability before insurance is granted on the
2 employee.

3 ~~SEC. 179.~~

4 *SEC. 173.* Section 11871 of the Insurance Code is amended to
5 read:

6 11871. The State Compensation Insurance Fund may enter into
7 a master agreement with the Department of Human Resources to
8 render services in the adjustment and disposition of claims for
9 workers' compensation to any state agencies, including any officer,
10 department, division, bureau, commission, board or authority, not
11 insured with the fund.

12 The master agreement shall provide for rendition of services at
13 a uniform rate to all agencies, except that the rate for the
14 Department of the California Highway Patrol may be fixed
15 independently of the uniform rate.

16 The fund may, in accordance with the agreement, adjust and
17 dispose of claims for workers' compensation made by an officer
18 or employee of any state agency not insured with the fund.

19 The fund may make all expenditures, including payment to
20 claimants for medical care or for adjustment or settlement of
21 claims, necessary to the adjustment and final disposition of claims.
22 The agreement shall provide that the state agency whose officer
23 or employee is a claimant shall reimburse the fund for the
24 expenditures and for the actual cost of services rendered.

25 The fund may in its own name, or in the name of the state agency
26 for which the services are performed, do any and all things
27 necessary to recover on behalf of the state agency for which it
28 renders service any and all amounts which an employer might
29 recover from third persons under Chapter 5 (commencing with
30 Section 3850) of Part 1 of Division 4 of the Labor Code, or which
31 an insurer might recover pursuant to Section 11662 including the
32 right to commence and prosecute actions, to file, pursuant to
33 Chapter 5 (commencing with Section 3850) of Part 1 of Division
34 4 of the Labor Code, liens for whatever sums would be recoverable
35 by suit against a third person, to intervene in other court
36 proceedings, and to compromise claims and actions before or after
37 commencement of suit or after entry of judgment when in the
38 opinion of the fund full collection cannot be enforced.

1 ~~SEC. 180.~~

2 *SEC. 174.* Section 12693.65 of the Insurance Code is amended
3 to read:

4 12693.65. (a) Vision benefits shall be provided to subscribers
5 and shall meet the federal coverage requirements in Section 2103
6 of Title XXI of the Social Security Act.

7 (b) The covered benefits shall be equivalent to those provided
8 to state employees through the Department of Human Resources,
9 except for tinted lenses and also photochromatic lenses, unless
10 otherwise deemed medically necessary.

11 (c) The board shall establish the required subscriber copayment
12 levels for vision benefits consistent with the limitations of Section
13 2103 of Title XXI of the Social Security Act. The copayment levels
14 established by the board shall, to the extent possible, reflect the
15 copayment levels provided to state employees through the
16 Department of Human Resources.

17 (d) From March 1, 2011, to June 30, 2012, inclusive, the
18 adoption and readoption, by the board, of regulations to modify
19 vision benefits pursuant to this section, including, but not limited
20 to, restriction of providers through which covered vision benefits
21 may be obtained, restriction of benefits for services from
22 nonparticipating providers, or restriction of products and materials
23 provided as benefits pursuant to this section, shall be deemed to
24 be an emergency and necessary to avoid serious harm to the public
25 peace, health, safety, or general welfare for purposes of Sections
26 11346.1 and 11349.6 of the Government Code, and the board is
27 hereby exempted from the requirement that it describe facts
28 showing the need for immediate action and from review by the
29 Office of Administrative Law.

30 ~~SEC. 181.~~

31 *SEC. 175.* Section 12710 of the Insurance Code is amended to
32 read:

33 12710. The California Major Risk Medical Insurance Program
34 is hereby created in the Health and Welfare Agency. The program
35 shall be managed by the Major Risk Medical Insurance Board.
36 The board shall consist of seven members, five of whom shall be
37 appointed as follows:

38 The Governor shall appoint three members, subject to
39 confirmation by the Senate, and shall designate one of these
40 appointees as chair of the board. The Senate Committee on Rules

1 shall appoint one member. The Speaker of the Assembly shall
2 appoint one member. The terms of appointment shall be four years.

3 The Secretary of Business, Transportation and Housing, or his
4 or her designee, and the Secretary of Health and Welfare, or his
5 or her designee, shall serve on the board as ex officio, nonvoting
6 members.

7 The board shall appoint an executive director for the board, who
8 shall serve at the pleasure of the board. The executive director
9 shall receive the salary established by the Department of Human
10 Resources for exempt officials. The executive director shall
11 administer the affairs of the board as directed by the board, and
12 shall direct the staff of the board. The executive director may
13 appoint, with the approval of the board, staff necessary to carry
14 out the provisions of this part.

15 ~~SEC. 182.~~

16 *SEC. 176.* Section 122 of the Labor Code is amended to read:

17 122. The administrative director shall appoint a medical director
18 who shall possess a physician's and surgeon's certificate granted
19 under Chapter 5 (commencing with Section 2000) of Division 2
20 of the Business and Professions Code. The medical director shall
21 employ medical assistants who shall also possess physicians' and
22 surgeons' certificates and other staff necessary to the performance
23 of his or her duties. The salaries for the medical director and his
24 or her assistants shall be fixed by the Department of Human
25 Resources, commensurate with the salaries paid by private industry
26 to medical directors and assistant medical directors.

27 ~~SEC. 183.~~

28 *SEC. 177.* Section 123 of the Labor Code is amended to read:

29 123. The administrative director may employ necessary
30 assistants, officers, experts, statisticians, actuaries, accountants,
31 workers' compensation administrative law judges, stenographic
32 shorthand reporters, legal secretaries, disability evaluation raters,
33 program technicians, and other employees to implement new,
34 efficient court management systems. The salaries of the workers'
35 compensation administrative law judges shall be fixed by the
36 Department of Human Resources for a class of positions which
37 perform judicial functions.

38 ~~SEC. 184.~~

39 *SEC. 178.* Section 3352 of the Labor Code is amended to read:

40 3352. "Employee" excludes the following:

1 (a) Any person defined in subdivision (d) of Section 3351 who
2 is employed by his or her parent, spouse, or child.

3 (b) Any person performing services in return for aid or
4 sustenance only, received from any religious, charitable, or relief
5 organization.

6 (c) Any person holding an appointment as deputy clerk or deputy
7 sheriff appointed for his or her own convenience, and who receives
8 no compensation from the county or municipal corporation or from
9 the citizens thereof for his or her services as the deputy. This
10 exclusion is operative only as to employment by the county or
11 municipal corporation and does not deprive any person so
12 deputized from recourse against a private person employing him
13 or her for injury occurring in the course of and arising out of the
14 employment.

15 (d) Any person performing voluntary services at or for a
16 recreational camp, hut, or lodge operated by a nonprofit
17 organization, exempt from federal income tax under Section 101(6)
18 of the Internal Revenue Code, of which he or she or a member of
19 his or her family is a member and who receives no compensation
20 for those services other than meals, lodging, or transportation.

21 (e) Any person performing voluntary service as a ski patrolman
22 who receives no compensation for those services other than meals
23 or lodging or the use of ski tow or ski lift facilities.

24 (f) Any person employed by a ski lift operator to work at a snow
25 ski area who is relieved of and not performing any prescribed
26 duties, while participating in recreational activities on his or her
27 own initiative.

28 (g) Any person, other than a regular employee, participating in
29 sports or athletics who receives no compensation for the
30 participation other than the use of athletic equipment, uniforms,
31 transportation, travel, meals, lodgings, or other expenses incidental
32 thereto.

33 (h) Any person defined in subdivision (d) of Section 3351 who
34 was employed by the employer to be held liable for less than 52
35 hours during the 90 calendar days immediately preceding the date
36 of the injury for injuries, as defined in Section 5411, or during the
37 90 calendar days immediately preceding the date of the last
38 employment in an occupation exposing the employee to the hazards
39 of the disease or injury for injuries, as defined in Section 5412, or
40 who earned less than one hundred dollars (\$100) in wages from

1 the employer during the 90 calendar days immediately preceding
2 the date of the injury for injuries, as defined in Section 5411, or
3 during the 90 calendar days immediately preceding the date of the
4 last employment in an occupation exposing the employee to the
5 hazards of the disease or injury for injuries, as defined in Section
6 5412.

7 (i) Any person performing voluntary service for a public agency
8 or a private, nonprofit organization who receives no remuneration
9 for the services other than meals, transportation, lodging, or
10 reimbursement for incidental expenses.

11 (j) Any person, other than a regular employee, performing
12 officiating services relating to amateur sporting events sponsored
13 by any public agency or private, nonprofit organization, who
14 receives no remuneration for these services other than a stipend
15 for each day of service no greater than the amount established by
16 the Department of Human Resources as a per diem expense for
17 employees or officers of the state. The stipend shall be presumed
18 to cover incidental expenses involved in officiating, including, but
19 not limited to, meals, transportation, lodging, rule books and
20 courses, uniforms, and appropriate equipment.

21 (k) Any student participating as an athlete in amateur sporting
22 events sponsored by any public agency, public or private nonprofit
23 college, university or school, who receives no remuneration for
24 the participation other than the use of athletic equipment, uniforms,
25 transportation, travel, meals, lodgings, scholarships, grants-in-aid,
26 or other expenses incidental thereto.

27 (l) Any law enforcement officer who is regularly employed by
28 a local or state law enforcement agency in an adjoining state and
29 who is deputized to work under the supervision of a California
30 peace officer pursuant to paragraph (4) of subdivision (a) of Section
31 832.6 of the Penal Code.

32 (m) Any law enforcement officer who is regularly employed
33 by the Oregon State Police, the Nevada Department of Motor
34 Vehicles and Public Safety, or the Arizona Department of Public
35 Safety and who is acting as a peace officer in this state pursuant
36 to subdivision (a) of Section 830.32 of the Penal Code.

37 (n) Any person, other than a regular employee, performing
38 services as a sports official for an entity sponsoring an
39 intercollegiate or interscholastic sports event, or any person
40 performing services as a sports official for a public agency, public

1 entity, or a private nonprofit organization, which public agency,
2 public entity, or private nonprofit organization sponsors an amateur
3 sports event. For purposes of this subdivision, “sports official”
4 includes an umpire, referee, judge, scorekeeper, timekeeper, or
5 other person who is a neutral participant in a sports event.

6 (o) Any person who is an owner-builder, as defined in
7 subdivision (a) of Section 50692 of the Health and Safety Code,
8 who is participating in a mutual self-help housing program, as
9 defined in Section 50087 of the Health and Safety Code, sponsored
10 by a nonprofit corporation.

11 ~~SEC. 185.~~

12 *SEC. 179.* Section 4600 of the Labor Code is amended to read:

13 4600. (a) Medical, surgical, chiropractic, acupuncture, and
14 hospital treatment, including nursing, medicines, medical and
15 surgical supplies, crutches, and apparatuses, including orthotic and
16 prosthetic devices and services, that is reasonably required to cure
17 or relieve the injured worker from the effects of his or her injury
18 shall be provided by the employer. In the case of his or her neglect
19 or refusal reasonably to do so, the employer is liable for the
20 reasonable expense incurred by or on behalf of the employee in
21 providing treatment.

22 (b) As used in this division and notwithstanding any other
23 provision of law, medical treatment that is reasonably required to
24 cure or relieve the injured worker from the effects of his or her
25 injury means treatment that is based upon the guidelines adopted
26 by the administrative director pursuant to Section 5307.27 or, prior
27 to the adoption of those guidelines, the updated American College
28 of Occupational and Environmental Medicine’s Occupational
29 Medicine Practice Guidelines.

30 (c) Unless the employer or the employer’s insurer has
31 established a medical provider network as provided for in Section
32 4616, after 30 days from the date the injury is reported, the
33 employee may be treated by a physician of his or her own choice
34 or at a facility of his or her own choice within a reasonable
35 geographic area.

36 (d) (1) If an employee has notified his or her employer in
37 writing prior to the date of injury that he or she has a personal
38 physician, the employee shall have the right to be treated by that
39 physician from the date of injury if either of the following
40 conditions exist:

1 (A) The employer provides nonoccupational group health
2 coverage in a health care service plan, licensed pursuant to Chapter
3 2.2 (commencing with Section 1340) of Division 2 of the Health
4 and Safety Code.

5 (B) The employer provides nonoccupational health coverage in
6 a group health plan or a group health insurance policy as described
7 in Section 4616.7.

8 (2) For purposes of paragraph (1), a personal physician shall
9 meet all of the following conditions:

10 (A) Be the employee's regular physician and surgeon, licensed
11 pursuant to Chapter 5 (commencing with Section 2000) of Division
12 2 of the Business and Professions Code.

13 (B) Be the employee's primary care physician and has
14 previously directed the medical treatment of the employee, and
15 who retains the employee's medical records, including his or her
16 medical history. "Personal physician" includes a medical group,
17 if the medical group is a single corporation or partnership
18 composed of licensed doctors of medicine or osteopathy, which
19 operates an integrated multispecialty medical group providing
20 comprehensive medical services predominantly for
21 nonoccupational illnesses and injuries.

22 (C) The physician agrees to be predesignated.

23 (3) If the employer provides nonoccupational health care
24 pursuant to Chapter 2.2 (commencing with Section 1340) of
25 Division 2 of the Health and Safety Code, and the employer is
26 notified pursuant to paragraph (1), all medical treatment, utilization
27 review of medical treatment, access to medical treatment, and other
28 medical treatment issues shall be governed by Chapter 2.2
29 (commencing with Section 1340) of Division 2 of the Health and
30 Safety Code. Disputes regarding the provision of medical treatment
31 shall be resolved pursuant to Article 5.55 (commencing with
32 Section 1374.30) of Chapter 2.2 of Division 2 of the Health and
33 Safety Code.

34 (4) If the employer provides nonoccupational health care, as
35 described in Section 4616.7, all medical treatment, utilization
36 review of medical treatment, access to medical treatment, and other
37 medical treatment issues shall be governed by the applicable
38 provisions of the Insurance Code.

1 (5) The insurer may require prior authorization of any
2 nonemergency treatment or diagnostic service and may conduct
3 reasonably necessary utilization review pursuant to Section 4610.

4 (6) An employee shall be entitled to all medically appropriate
5 referrals by the personal physician to other physicians or medical
6 providers within the nonoccupational health care plan. An
7 employee shall be entitled to treatment by physicians or other
8 medical providers outside of the nonoccupational health care plan
9 pursuant to standards established in Article 5 (commencing with
10 Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety
11 Code.

12 (e) (1) When at the request of the employer, the employer's
13 insurer, the administrative director, the appeals board, or a workers'
14 compensation administrative law judge, the employee submits to
15 examination by a physician, he or she shall be entitled to receive,
16 in addition to all other benefits herein provided, all reasonable
17 expenses of transportation, meals, and lodging incident to reporting
18 for the examination, together with one day of temporary disability
19 indemnity for each day of wages lost in submitting to the
20 examination.

21 (2) Regardless of the date of injury, "reasonable expenses of
22 transportation" includes mileage fees from the employee's home
23 to the place of the examination and back at the rate of twenty-one
24 cents (\$0.21) a mile or the mileage rate adopted by the Director
25 of Human Resources pursuant to Section 19820 of the Government
26 Code, whichever is higher, plus any bridge tolls. The mileage and
27 tolls shall be paid to the employee at the time he or she is given
28 notification of the time and place of the examination.

29 (f) When at the request of the employer, the employer's insurer,
30 the administrative director, the appeals board, or a workers'
31 compensation administrative law judge, an employee submits to
32 examination by a physician and the employee does not proficiently
33 speak or understand the English language, he or she shall be
34 entitled to the services of a qualified interpreter in accordance with
35 conditions and a fee schedule prescribed by the administrative
36 director. These services shall be provided by the employer. For
37 purposes of this section, "qualified interpreter" means a language
38 interpreter certified, or deemed certified, pursuant to Article 8
39 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of

1 Division 3 of Title 2 of, or Section 68566 of, the Government
2 Code.

3 ~~SEC. 186.~~

4 *SEC. 180.* Section 322 of the Military and Veterans Code is
5 amended to read:

6 322. Officers, warrant officers, and enlisted men and women
7 on active duty in the service of the state, except in situations
8 described in Section 188, shall be reimbursed for their necessary
9 traveling and other expenses in accordance with the rules and
10 regulations adopted by the Department of Human Resources.

11 ~~SEC. 187.~~

12 *SEC. 181.* Section 1011 of the Military and Veterans Code is
13 amended to read:

14 1011. (a) There is in the department a Veterans' Home of
15 California, Yountville, situated at Veterans' Home, Napa County.

16 (b) (1) The department may establish and construct a second
17 home that shall be situated in the County of Imperial, Los Angeles,
18 Orange, Riverside, San Bernardino, San Diego, or Ventura. The
19 home may be located on one or more sites. The department shall
20 operate the second home concurrently with the first home.

21 (2) The initial site is the Veterans' Home of California, Barstow,
22 situated in Barstow, San Bernardino County. That site may provide
23 skilled nursing care for up to 250 residents.

24 (3) When completed, the second site shall be the Veterans'
25 Home of California, Chula Vista, situated in Chula Vista, San
26 Diego County, pursuant to the recommendations made by the
27 commission established pursuant to former Section 1011.5.

28 (4) When completed, the third site shall be the Veterans' Home
29 of California, Lancaster, situated in Lancaster, Los Angeles County,
30 pursuant to the recommendations made by the commission
31 established pursuant to former Section 1011.5.

32 (5) When completed, the fourth site shall be the Veterans' Home
33 of California, Ventura, situated in the community of Saticoy,
34 Ventura County.

35 (6) There shall be an administrator for, and located at, each site
36 of the southern California home.

37 (7) The department may complete any preapplication process
38 necessary with the United States Department of Veterans Affairs
39 for construction of the second home.

(c) The Legislature hereby finds and declares that the second home is a new state function. The department may perform any or all work in operating the second home by independent contractors, except the overall administration and management of the home. Any and all actions of the department taken before September 17, 1996, that are consistent with this subdivision are hereby ratified and confirmed, it having at all times been the intent of the Legislature that the department be so authorized.

(d) There shall be an administrator for each home or homesite, who shall be recommended by the Secretary of Veterans Affairs and appointed by the Governor, and shall be located at that home or homesite. The salary for each administrator shall be subject to the approval of the Department of Human Resources.

~~SEC. 188.~~

SEC. 182. Section 832.9 of the Penal Code is amended to read:

832.9. (a) A governmental entity employing a peace officer, as defined in Section 830, judge, court commissioner, or an attorney employed by the Department of Justice, the State Public Defender, or a county office of a district attorney or public defender shall reimburse the moving and relocation expenses of those employees, or any member of his or her immediate family residing with the officer in the same household or on the same property when it is necessary to move because the officer has received a credible threat that a life threatening action may be taken against the officer, judge, court commissioner, or an attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender or his or her immediate family as a result of his or her employment.

(b) The person relocated shall receive actual and necessary moving and relocation expenses incurred both before and after the change of residence, including reimbursement for the costs of moving household effects either by a commercial household goods carrier or by the employee.

(1) Actual and necessary moving costs shall be those costs that are set forth in the Department of Human Resources rules governing promotional relocations while in the state service. The department shall not be required to administer this section.

(2) The public entity shall not be liable for any loss in value to a residence or for the decrease in value due to a forced sale.

1 (3) Except as provided in subdivision (c), peace officers, judges,
2 court commissioners, and attorneys employed by the Department
3 of Justice, the State Public Defender, or a county office of a district
4 attorney or public defender shall receive approval of the appointing
5 authority prior to incurring any cost covered by this section.

6 (4) Peace officers, judges, court commissioners, and attorneys
7 employed by the Department of Justice, the State Public Defender,
8 or a county office of a district attorney or public defender shall
9 not be considered to be on duty while moving unless approved by
10 the appointing authority.

11 (5) For a relocation to be covered by this section, the appointing
12 authority shall be notified as soon as a credible threat has been
13 received.

14 (6) Temporary relocation housing shall not exceed 60 days.

15 (7) The public entity ceases to be liable for relocation costs after
16 120 days of the original notification of a viable threat if the peace
17 officer, judge, court commissioner, or attorney employed by the
18 Department of Justice, the State Public Defender, or a county office
19 of a district attorney or public defender has failed to relocate.

20 (c) (1) For purposes of the right to reimbursement of moving
21 and relocation expenses pursuant to this section, judges shall be
22 deemed to be employees of the State of California and a court
23 commissioner is an employee of the court by which he or she is
24 employed.

25 (2) For purposes of paragraph (3) of subdivision (b), a court
26 commissioner shall receive approval by the presiding judge of the
27 superior court in the county in which he or she is located.

28 (3) For purposes of paragraph (3) of subdivision (b), judges,
29 including justices of the Supreme Court and the Courts of Appeal,
30 shall receive approval from the Chief Justice, or his or her designee.

31 (d) As used in this section, “credible threat” means a verbal or
32 written statement or a threat implied by a pattern of conduct or a
33 combination of verbal or written statements and conduct made
34 with the intent and the apparent ability to carry out the threat so
35 as to cause the person who is the target of the threat to reasonably
36 fear for his or her safety or the safety of his or her immediate
37 family.

38 (e) As used in this section, “immediate family” means the
39 spouse, parents, siblings, and children residing with the peace
40 officer, judge, court commissioner, or attorney employed by the

1 Department of Justice, the State Public Defender, or a county office
2 of a district attorney or public defender.

3 ~~SEC. 189.~~

4 *SEC. 183.* Section 6050 of the Penal Code is amended to read:

5 6050. (a) The Governor, upon recommendation of the
6 secretary, shall appoint the wardens of the various state prisons.
7 Each warden shall be subject to removal by the secretary. If the
8 secretary removes him or her, the secretary's action shall be final.
9 The wardens shall be exempt from civil service.

10 (b) The Department of Human Resources shall fix the
11 compensation of the wardens of the state prisons.

12 ~~SEC. 190.~~

13 *SEC. 184.* Section 10295 of the Public Contract Code is
14 amended to read:

15 10295. (a) All contracts entered into by any state agency for
16 (1) the acquisition of goods or elementary school textbooks, (2)
17 services, whether or not the services involve the furnishing or use
18 of goods or are performed by an independent contractor, (3) the
19 construction, alteration, improvement, repair, or maintenance of
20 property, real or personal, or (4) the performance of work or
21 services by the state agency for or in cooperation with any person,
22 or public body, are void unless and until approved by the
23 department. Every contract shall be transmitted with all papers,
24 estimates, and recommendations concerning it to the department
25 and, if approved by the department, shall be effective from the
26 date of the approval.

27 (b) This section applies to any state agency that by general or
28 specific statute is expressly or impliedly authorized to enter into
29 transactions referred to in this section.

30 (c) This section does not apply to the following:

31 (1) Any transaction entered into by the Trustees of the California
32 State University, by the Board of Governors of the California
33 Community Colleges, or by a department under the State Contract
34 Act or the California State University Contract Law.

35 (2) Any contract of a type specifically mentioned and authorized
36 to be entered into by the Department of Transportation under
37 Section 14035 or 14035.5 of the Government Code, Sections 99316
38 to 99319, inclusive, of the Public Utilities Code, or the Streets and
39 Highways Code.

1 (3) Any contract entered into by the Department of
2 Transportation that is not funded by money derived by state tax
3 sources but, rather, is funded by money derived from federal or
4 local tax sources.

5 (4) Any contract entered into by the Department of Human
6 Resources for state employee benefits, occupational health and
7 safety, training services, or combination thereof.

8 (5) Any contract let by the Legislature.

9 (6) Any contract entered into under the authority of Chapter 4
10 (commencing with Section 11770) of Part 3 of Division 2 of the
11 Insurance Code.

12 ~~SEC. 191.~~

13 *SEC. 185.* Section 10344.1 of the Public Contract Code is
14 amended to read:

15 10344.1. The Department of Human Resources, with respect
16 to contracts it enters into for state employees for employee benefits,
17 occupational health and safety, training services, or any
18 combination thereof, shall provide all qualified bidders with a fair
19 opportunity to enter the bidding process, therefore stimulating
20 competition in a manner conducive to sound fiscal practices. The
21 Department of Human Resources shall make available to any
22 member of the public its guidelines for awarding these contracts,
23 and to the extent feasible, implement the objectives set forth in
24 Section 10351.

25 ~~SEC. 192.~~

26 *SEC. 186.* Section 10349 of the Public Contract Code is
27 amended to read:

28 10349. The Department of Human Resources shall establish a
29 program for training state agency contracting personnel in contract
30 administration and contract management. The cost of training state
31 agency contracting personnel shall be paid by state agencies out
32 of their appropriations for personnel training. The Department of
33 Human Resources shall, prior to establishing the training program
34 required by this section, consult with the department concerning
35 the training curriculum and the development of a training manual
36 on contract administration.

37 ~~SEC. 193.~~

38 *SEC. 187.* Section 309.1 of the Public Utilities Code is amended
39 to read:

1 309.1. The Governor may appoint one adviser for each member
2 of the commission upon the request of the commission member.
3 Each adviser shall receive a salary fixed by the commission with
4 the approval of the Department of Human Resources. The total
5 number of advisers exempt from civil service may not exceed five.

6 ~~SEC. 194.~~

7 *SEC. 188.* Section 185024 of the Public Utilities Code is
8 amended to read:

9 185024. (a) The authority shall appoint an executive director,
10 exempt from civil service, who shall serve at the pleasure of the
11 authority, to administer the affairs of the authority as directed by
12 the authority.

13 (b) For purposes of managing and administering the ongoing
14 work of the authority in implementing the high-speed train project,
15 the Governor, upon the recommendation of the executive director,
16 may appoint up to six additional individuals, exempt from civil
17 service, who shall serve at the pleasure of the executive director.
18 Pursuant to this subdivision, the Governor may appoint persons
19 only for the following positions:

20 (1) Chief program manager.

21 (2) Up to three regional directors.

22 (3) Chief financial officer.

23 (4) Director of risk management and project controls.

24 (c) The compensation of the executive director and the additional
25 persons authorized by subdivision (b) shall be established by the
26 authority, and approved by the Department of Human Resources,
27 in an amount that is reasonably necessary, in the discretion of the
28 authority, to attract and hold a person of superior qualifications.
29 The authority shall cause to be conducted, through the use of
30 independent outside advisers, a salary survey to determine the
31 compensation for the positions under this subdivision. The
32 Department of Human Resources may, in its discretion, accept a
33 previously completed salary survey that meets the requirements
34 of this subdivision, and shall review the methodology used in the
35 survey. The salary survey shall consider both of the following:

36 (1) Other state, regional, and local transportation agencies that
37 are most comparable to the authority and its responsibilities.

38 (2) Other relevant labor pools.

39 The compensation set by the authority shall not exceed the
40 highest comparable compensation for a position of that type, as

1 determined by the salary survey. Based on the salary survey, these
2 positions shall be paid a salary established by the authority and
3 approved by the Department of Human Resources.

4 (d) The executive director may, as authorized by the authority,
5 appoint necessary staff to carry out the provisions of this part.

6 ~~SEC. 195.~~

7 *SEC. 189.* Section 19270 of the Revenue and Taxation Code
8 is amended to read:

9 19270. (a) Consistent with the development and
10 implementation of the California Child Support Automation System
11 (CCSAS), the Franchise Tax Board and the Department of Child
12 Support Services shall enter into a letter of agreement and an
13 interagency agreement whereby the Department of Child Support
14 Services shall assume responsibility for collection of child support
15 delinquencies and the Financial Institution Data Match System as
16 set forth in this article. The letter of agreement and the interagency
17 agreement shall, at a minimum, set forth all of the following:

18 (1) Contingent upon the enactment of the Budget Act, and
19 staffing authorization from the Department of Finance and the
20 Department of Human Resources, the Department of Child Support
21 Services shall assume responsibility for leadership and staff of
22 collection of child support delinquencies and the Financial
23 Institution Data Match System.

24 (2) All employees and other personnel who staff or provide
25 support for the collection of child support delinquencies and the
26 Financial Institution Data Match System at the Franchise Tax
27 Board shall become the employees of the Department of Child
28 Support Services at their existing or equivalent classification,
29 salaries, and benefits.

30 (3) Any other provisions necessary to ensure continuity of
31 function and meet or exceed existing levels of service, including,
32 but not limited to, agreements for continued use of automated
33 systems used by the Franchise Tax Board to locate child support
34 obligors and their assets.

35 (b) It is the intent of the Legislature that any provision of income
36 tax return information by the Franchise Tax Board to the
37 Department of Child Support Services pursuant to this article shall
38 be done in accordance with the privacy and confidential
39 information laws of this state and the United States, and to the
40 satisfaction of the Franchise Tax Board.

1 ~~SEC. 196.~~

2 *SEC. 190.* Section 2266 of the Vehicle Code is amended to
3 read:

4 2266. (a) The Legislature finds and declares all of the
5 following:

6 (1) The communications operators of the Department of the
7 California Highway Patrol are among the lowest paid when
8 compared to operators employed by other law enforcement
9 agencies in the state. The department's communication centers
10 suffer from significant staff shortages and high turnover rates.
11 Increasing the wages paid to these communications operators will
12 increase their professionalism while reducing their rate of turnover.

13 (2) The recruitment and retention problem is especially evident
14 in the classifications of Communications Operator I and II.

15 (3) In order for the state to recruit and retain the highest qualified
16 and capable communications operators, those employees should
17 be compensated in an amount equal to the estimated average total
18 compensation for the classifications corresponding to
19 Communications Operator I and II within the police departments
20 in the Cities of Los Angeles, Oakland, San Diego, and San Jose
21 and the City and County of San Francisco.

22 (4) According to the Department of the California Highway
23 Patrol, it costs the department thirty-six thousand one hundred
24 ninety-eight dollars (\$36,198) to train a Communications Operator
25 I and sixty-five thousand two hundred two dollars (\$65,202) to
26 train a Communications Operator II to their respective
27 classifications. After the department has trained an operator, all
28 too often the new, fully trained operator will move to a local agency
29 to a higher wage.

30 (5) This section is not in violation of the Ralph C. Dills Act
31 (Chapter 10.3 (commencing with Section 3512) of Division 4 of
32 Title 1 of the Government Code), which requires that changes for
33 salaries and benefits be collectively bargained between
34 representatives of the state and the employee's union. This section
35 does not circumvent that process. This section simply authorizes
36 the Department of Human Resources, when determining
37 compensation for communications operators in the Department of
38 the California Highway Patrol, to consider the total compensation
39 for communications operators in other jurisdictions.

1 (b) When determining compensation for communications
2 operators in the Department of the California Highway Patrol, the
3 Department of Human Resources may consider the total
4 compensation for communications operators in comparable
5 positions in the police departments specified in paragraph (3) of
6 subdivision (a).

7 ~~SEC. 197.~~

8 *SEC. 191.* Section 80122 of the Water Code is amended to
9 read:

10 80122. The department may do any of the following as may
11 be, in the determination of the department, necessary for the
12 purposes of this division:

13 (a) Hire and appoint employees as required, at salary levels
14 determined by the director to be competitive to attract and retain
15 persons with the necessary expertise and skills. Prior to hiring or
16 appointing an employee at a salary in excess of a salary approved
17 by the Department of Human Resources, the director shall submit
18 the proposed salary to the Director of Finance who shall submit it
19 to the Legislature in accordance with Section 27.00 of the annual
20 Budget Act. No excess salary authorized under this section may
21 be paid on or after January 1, 2003. The excess portion of a salary
22 authorized under this section may not be considered salary in the
23 calculation of final compensation for purposes of benefits under
24 the Public Employees' Retirement System.

25 (b) Engage the services of private parties to render professional
26 and technical assistance and advice and other services in carrying
27 out the purposes of this division.

28 (c) Contract for the services of other public agencies.

29 (d) The State Personnel Board and the Department of Human
30 Resources shall assist the department in expediting the hiring of
31 personnel necessary and desirable for the timely and successful
32 implementation and administration of the department's duties and
33 responsibilities pursuant to this division.

34 *SEC. 192. Any section of any act enacted by the Legislature*
35 *during the 2012 calendar year that takes effect on or before*
36 *January 1, 2013, and that amends, amends and renumbers, adds,*
37 *repeals and adds, or repeals a section that is amended, amended*
38 *and renumbered, added, repealed and added, or repealed by this*
39 *act, shall prevail over this act, whether that act is enacted prior*
40 *to, or subsequent to, the enactment of this act. The repeal, or repeal*

1 *and addition, of any article, chapter, part, title, or division of any*
2 *code by this act shall not become operative if any section of any*
3 *other act that is enacted by the Legislature during the 2012*
4 *calendar year and takes effect on or before January 1, 2013,*
5 *amends, amends and renumbers, adds, repeals and adds, or repeals*
6 *any section contained in that article, chapter, part, title, or division.*